

Drafting a democracy

*An analysis on the drafting process of the election laws after
the fall of President Suharto in Indonesia, 1998-1999*

Gunnar Gase Handeland



Hovedoppgave

Institutt for statsvitenskap

UNIVERSITETET I OSLO

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Preface

My interest for Indonesian politics started when I was on a study tour to the archipelago in 1995. At that time, Indonesia was a growing economy with a stable but not democratic, political situation. What happened during the Asian crisis only three years later changed the situation rapidly, and I was curious to study the political turmoils that took place. Therefore, I was lucky to start my work with this thesis only months after Suharto stepped down in 1998, and I have to thank both the Faculty of Social Science at the University of Oslo and The Ryoichi Sasakawa Fund for the funding which enabled me to travel to Indonesia and do research there. I also want to thank Nordic Institute of Asian Studies (NIAS) in Copenhagen who gave me a Scholarship so I could stay at their institute for two weeks in 1999.

Although everything seemed to be prepared for my studies I was unfortunately not able to finish the thesis on regular time. I got a job, dropped out of my studies and have been working with all other things than Indonesian politics for the last years. Nevertheless I have not given up my hope to finish it. Therefore, I would like to thank my supervisor, Olle Törnquist, for his encouragement and patience, for introducing me both to the theme and to a lot of his contacts in Indonesia in the late 90's, and for continuing supervising when I decided to finish my thesis.

Finally, I want to thank my wife, family, relatives and friends for their entire support during the time it has taken to finish this thesis.

Lastly, and almost needless to say - the responsibility of this thesis, in particular any errors, rests with the author.

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Gase Handeland

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1 INTRODUCTION

"Reform of the election system is often advocated but seldom accomplished. A major difficulty is that the parties and members currently in parliament are the very ones whose consent is required to enact changes" (David M. Olson 1994: 97)

In 1999 Indonesia held its first free elections since 1955. The transition to this democratic event started with the Asian Crisis, which led Indonesia into a period of deep economical, social and political unrest that forced President Suharto to give up his 32-years long presidency on May 21st 1998.

Many leaders of the nations of the world warmly welcomed the democratic election that was held in June. My question is regarding what kind of democracy did Indonesia enter into? And furthermore: Were the election laws formed in such a way that they could secure the right of every major political group to contest the election, and let every Indonesian have the same the right to vote and to become elected?

This thesis will concentrate on the drafting process of the three new electoral laws that were adopted on January 28th 1999. These laws formed the framework for the elections that were held later on the same year. A lot of the research on democracy within the political science focuses on the election itself or the transition to democracy in a wider perspective, but very little attention has been paid on the formation of the laws that regulate the elections. I will argue that it is important to focus on the election laws because they make a great impact on the possibilities that different political parties and oppositional groups have to contest an election and to gain seats in parliament. Bernhard Grofman and Arend Lijphart say that the little recognition in electoral studies is remarkable because of the fact that "institutions can

constrain and structure political choices in a fundamental way" (Grofman and Lijphart 1986: 15).

It is particularly interesting to study this process of transition to democracy in the situation where members of a non-democratic elected parliament suddenly have to decide on the rules for a democratic election. This paradox was the situation in Indonesia, where the Golkar-dominated¹ parliament formed the laws that paved the way for the first multi-party democratic elections in decades. One can just wonder if it is possible for authoritarianists to overnight become sworn democrats who have to build the foundation for a parliamentary system which may lead to their own downfall.

In this introduction I will first give a brief overview over the historical events that led to the political crisis in which President Suharto was forced from power. Thereafter I will in the next chapter continue by presenting the research question and the new election laws.

1.1 A country in crisis

The Asian economic crisis started with the devaluation of the Thai currency Baht in the summer 1997. The economic problems hit almost every national economy in the countries in Southeast Asia, and it developed into a political and social crisis in some of them.

The crisis affected Indonesia more than any other country in the region. During the autumn of 1997 the Indonesian currency, rupiah, started to lose its value rapidly, and the country went into a period of social, political and economical instability. There were hard pressures for reform both from the Indonesian people and from international organisations. The International Monetary Fund (IMF) demanded

¹ Golkar is the party of the former president Suharto. The election laws in Suharto's presidency were continuously changed in order to make sure that Golkar would have the majority of the seats in the parliament

reforms in the banking sector and other fields of the economy in order to give financial support to Indonesia, and when rice, fuel and other commodities became more expensive and more workers became unemployed, people started to protest all over the archipelago. The demonstrations continued in all the major cities, and turned after some time its focus from demanding lower prices to also demanding democracy and reform. The students at the different universities were among the most active group demonstrating in hope of bringing Suharto's New Order-politic to an end. The military (ABRI) which was feared for its previous killings of opposition groups, stayed aside from some instigating incidents, surprisingly calm when the student demonstrations culminated in early May 1998.

When Suharto stepped down on May 21st, there was little enthusiasm for his successor, Vice-president Jusuf B. Habibie, and therefore the students continued to demonstrate for democracy and reforms. Four days after Habibie came to power he promised that there would be new elections in Indonesia within a year, and that a reform of the election laws was necessary in order to give the opposition a fair opportunity to contest the election. So after 32 years with a sovereign one-party rule under president Suharto, the process of making the new election laws lasted for only eight months until the end of January 1999, when three new laws were adopted in the parliament.

1.2 The history of the political system in Indonesia

Like many other previous colonised countries, modern Indonesian political history started with a group of people who gathered to fight their European occupant. In the case of Indonesia, the occupants were the Netherlands. The Dutch East Indian Company founded Batavia, the city which today is the capital Jakarta, in 1619. At that time the Indonesian archipelago consisted of several different small powers that were fighting each other. Within the next three centuries The Dutch state took over rule from the East Indian Company and the different islands in the vast archipelago came under Dutch rule.

At the beginning of the 20th century the opposition against the Dutch rule was formed. Nevertheless, at the beginning of World War II, The Netherlands Indies, as Indonesia was called, was more or less in the same political stable situation as Indonesia seemed to be in before the Asian Economic Crisis in 1997. To quote David Joel Steinberg (1987: 418) Indonesia in 1941 “was in a nearly perfect state of what the Dutch called *rust en orde*, calm and order. The rapid changes of the previous decades, while creating deep social tensions, had not shaken colonial stability. Dutch rule, occasionally disturbed earlier in the century, was secure and nowhere effectively challenged from within”.

In 1941 the Japanese occupied Indonesia, ended the old order, and put aside the political and economical elite. Throughout the war two prewar leaders, Sukarno and Mohammed Hatta, worked harder to spread the nationalist idea of Indonesia. At June 1st 1945 Sukarno held his famous Pancasila-speech, and only two days after the Japanese rule ended, Sukarno and Hatta proclaimed the independence of Indonesia on August 17th 1945. The former colonists reacted on this proclamation and tried to regain their prewar rule. Indonesia therefore went into a period of struggle where a lot of people fought for a total political independence, and finally Indonesia became independent in 1949.

1.2.1 The Pancasila

Sukarno promulgated Pancasila as a recipe for Indonesian patriotism in a speech he gave to the Independence Preparatory Committee on June 1st 1945. He thus helped solve the conflict between Muslims, nationalists and Christians. The 1945 Constitution then set forth the Pancasila as the embodiment of basic principles of an independent Indonesian state. The Pancasila would later become the basic ideology for Indonesian politics in both Sukarno and Suharto’s presidencies.

The Five Principles (Pancasila means Five Principles):

1. Belief in the one and only God (Ketuhanan yang Maha Esa)

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2. Just and civilized humanity (Kemanusiaan yang Adil dan Beradab)
 3. The unity of Indonesia (Persatuan Indonesia)
 4. Democracy guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives (Kerakyatan yang Dipimpin oleh Hikmat Kebijaksanaan dalam Permusyawaratan/Perwakilan)
 5. Social justice for the whole of the people of Indonesia (Keadilan Sosial bagi Seluruh Rakyat Indonesia)

1.2.2 The 1955-election and political turmoils

After independence in 1949, Sukarno and Hatta were in power and worked to held a free and fair election. The first multiparty election was held in 1955. The election was “a great success as an act of popular franchise” (Steinberg et.al 1987: 423), but due to political turmoils throughtout Indonesia, the first election also became the last free election before June 1999. In the years to come, the Communist Party (PKI) gained more support, the army got wider administrative powers with a declaration of martial law, and president Sukarno showed his power when he inaugurated what he called a “Guided Democracy”.

“Guided Democracy” represented an alliance between the army, Sukarno and the support of PKI. In 1965 this alliance was shakened when the army showed their power. Hundreds of thousands of PKI-supporters were massacred, and on March 11th 1966 Sukarno was replaced as president by General Suharto. Suharto’s new policy for Indonesia was called the “New Order”, and this regime lasted until Suharto was forced to step down on May 21st 1998.

1.3 The “New order” as it was when Suharto left

Suharto’s New Order policy was a political system where only three political parties were allowed to contest the general elections. One of them was the governmental party, Golkar, which always got more than 90 percent of the votes. The two other

parties were the United Development Party, PPP, and the Indonesian Democratic Party (PDI). Both of them had, as for all other social and political organisations, to recognise Pancasila as their sole fundamental ideological foundation. Suharto ruled with the support of his own party, Golkar, and by the military, ABRI.

400 out of the 500 seats in the parliament, DPR, were contested in the general elections. The last 100 seats were reserved for representatives from the military who Suharto appointed. The president and vice-president were elected by the legislative body, the MPR. There were 1000 members in this body, and it consisted of the 500 members of the parliament and 500 representatives of different functional groups and representatives of the 27 provinces of Indonesia. Suharto appointed these 500 delegates and the 100 military members of the parliament, and hence he himself controlled the appointment of 60 % of the people who elected him every fifth year.

The government also tried to organise and control much of the rest of the society, like trying “to monopolise the representation of major interest groups, such as workers, students, peasants, women and religious congregations... The government both initiated the formation of new organisations and sponsored those already existing, providing them with official recognition and funding. In exchange the organisations were obliged to channel the government’s policies and political aspirations to their members, and to give electoral support to Golkar” (Eklöf 1999: 7).

On March 10th 1998 Suharto was through this system reelected as the president for a seventh term. 72 days later he was forced to step down.

1.4 The drafting process

The drafting process of the new laws lasted only in eight months, from the end of May 1998 to the end of January 1999. Within this time, a governmental approved Team of seven had made their proposal to the existing Habibie-government. Also an

NGO-Consortium and The Indonesian Institute of Science (LIPI) had made their proposals. The proposals were discussed in parliament in late November 1998, before the final laws were adopted late January 1999. The general election was then held on June 7th 1999, and the final allocation of seats to the parliament was finished on September 1st. On October 20th 1999 the People's Consultative Assembly (MPR) elected Abdurrahman Wahid as the new President and Megawati Sukarnoputri as the new Vice President.

2 THE NEW ELECTION LAWS

The electoral reform in Indonesia consists of three new laws governing elections, political parties and the structure of the legislative bodies (Law No 2, 3 and 4:1999). The laws were enacted on January 28th 1999 by the existing parliament, which had been elected in May 1997 under the rules of Suharto's New Order. President B.J. Habibie signed these bills into law on February 1st, 1999. The laws regulate both the general election of the national parliament called the People's Representative Assembly (DPR) and the elections of the two local levels which are the provincial assemblies (DPRD I) and the district assemblies (DPRD II). Some of the articles were very vague, and the general election commission (KPU) was set to carry out the policies of many of them after the election.

I will not discuss all the articles in the laws, but I will concentrate on the articles that have been most debated within the parliament and in the civil society outside the parliament. Furthermore, I will concentrate on the articles regarding the election to the national parliament and to the People's Consultative Assembly (MPR), and will therefore not elaborate on the articles and discussions regarding the elections to the provincial and district assemblies.

2.1 The law on political parties

Law number 2/1999 is regarding the political parties. It describes what kind of parties that may be able to register and contest the elections at the national level and the two local levels.

It says that in order to be allowed to contest any of the elections a party must have established party organisations in at least 9 out of Indonesia's 27 provinces, and in at least half of the regencies or municipalities within those nine provinces.

The paragraph from the 1984 law, requiring individual organisations to adopt Pancasila as their sole ideology, was eliminated. The new law allows political parties

to have religion as their founding ideology, although they must support the unity of the republic of Indonesia, Pancasila as the state ideology, and the 1945 Constitution. In addition, they must not be linked to the Indonesian Communist Party (PKI) or other banned organisations.

The new law represents a big change from the New Order-democracy which only recognised three political parties. It also opened up for traditional religious organisations to build political parties.

2.2 The law on General Election

Law number 3/1999 is regulating the general election. It prescribes the major guidelines for the seat allocation, and how the election shall be supervised and administrated.

The electoral system became a hybrid between proportional representation and district system. It is called a proportional system with district characteristics. This means that every party has to list their candidates at the district level. But the votes were to be counted at the provincial level and the seats were allocated in a proportional manner, as it was in Suharto-era. The district characteristics are found in that the candidates who are going to represent the parties have to come from the district in the province where the party fared best. But the direct, district-system-like, accountability for each representative to his or her local constituency is not there, because the party-list system accompanies proportional representation. It is said that the electoral system “was unique and was the clear product of political negotiation” (Hoosen 2003b: 158). I will discuss more on that negotiation later.

Further on the election law establishes an election commission (KPU). Article number 9 says that "Membership of KPU is composed of one representative from each political party participating in the election, and five governmental representatives" (Law no 3/1999, art 9, §1). But the voting rights from the governmental representatives and the representatives of the political parties shall be

balanced. Under Suharto, it was the government itself who was the organiser of the elections.

The final allocation of seats for DPR, DPRD I and DPRD II based on the election result has to be made by KPU. This means that KPU is given a central role in specifying the general principles regarding the PR-system.

The status of the Civil Servants was also changed. Under Suharto the Civil Servants were forced to vote for Golkar. Under the new rules they were free to elect any party, but they had to stay neutral and could therefore not become member of any political party.

All Indonesian citizens aged 17 or married at the time of the election are eligible to vote.

2.3 The law on structure and composition of MPR, DPR and DPRD

This law prescribes the total number of seats in the parliament (DPR) and the people's consultative assembly (MPR).

According to the law, the parliament (DPR) shall consist of 462 elected members and 38 appointed members from ABRI, and the total number of MPs will then be 500.

The number of seats in MPR is reduced from 1000 in the previous laws under Suharto, to 700 according to the new law. MPR shall consist of the 500 members of parliament, in addition to 135 provincial representatives and 65 so-called "Society group representatives" – members of different social organisations who became members of MPR based on recommendation from KPU. The 135 provincial representatives are 5 elected representatives from each of the 27 provincial

assemblies². KPU is given the role of pointing out the "society group representatives".

Under Suharto the MPR consisted of 500 members from DPR and 500 members who were chosen from military, regional and functional group. The DPR on its side consisted of 425 elected members and 75 members from the military.

The MPR will elect the president, but the law did not describe a clear rule for this election in the event that consensus is lacking.

2.4 The theoretical framework

There are two different kinds of theories that will help illuminating the research question. The first are theories on election laws and election systems, and among them Arend Lijphart's theories on district systems and proportional representation in his book "Democracies - Patterns of Majoritarian and Consensus Government in Twenty-One Countries (1984), in addition to his theories and others on drafting of electoral laws. I will also in the later chapter discuss some of the aspects from Reynolds and Reillys "The International IDEA Handbook of Electoral System Design" (1997). One of the focal points for the Indonesian debates on election laws was the discussion on election system between district and proportional representation. This has to do with the discussion on seat allocation, and the drafter of the new laws related their discussion to Lijphart's theories and the background for his discussions. However, as we will see, there are several weaknesses in Lijphart's theories that were illuminated in the Indonesian debate. This has to do with who the representatives are responsible towards, the party or their home constituencies. Therefore it is also useful to look on the theoretical basis of the International Insitute

² East-Timor held their referendum regarding independence from Indonesia or more autonomy within Indonesia at August 30th 1999. The result showed a clear majority for independence. Therefore, DPRD I, the provincial parliament of the province of East-Timor was never settled after the election in June 1999. Hence, the number of elected representatives from the provinces in the MPR is 130 and not 135 since the provincial assembly of East-Timor did not choose their five representatives

for Democracy and Electoral Assistance (IDEA). One of the critical factors when focusing on Lijphart and other theories inspired by rational choice-approach is that we have to assume rationality among the drafters and the ones who decided on new election laws. But as they were to decide on new election laws in a situation where none polls or other signs of the Indonesian people's political preferences existed, it was almost impossible for the one who decided to calculate. Therefore we will see a vital discussion on election system, ended up with a compromise between district and proportional representation.

Therefore I will also discuss theories on transition, among them contributions from Linz and Stepan's "Problems of democratic Transition and Consolidation" (1996) and Atul Kohli (1993), as this is vital to illuminate what kind of actors that were involved in the transition phase. As we will see it is difficult to define what kind of transition the Indonesian was. But the theories on transition at least define a point of departure in an authoritarian state, and it gives us ideas on who is involved in the transition.

2.5 The research question

The aim for this thesis is trying to understand why the election laws in Indonesia were made in the way they were. There are many questions that we could have raised as underlying questions for this aim, among them are: Why did the Indonesian MP's, when they had the chance of reforming the old institutions, decide to stay with a unitarian state in one of the worlds most heterogeneous societies? Why did they not decide on a pure system of proportional representation or pure district system? Why did they make it so difficult to establish own political parties for regionalised

opposition in for example Aceh or Irian Jaya³? Why is the military appointed 38 seats in the parliament?

In order to provide an answer to these questions we have to take a closer look on the people, interest groups, parties and so on that were involved, or tried to involve in the process that led forward to the final decision in the end of January 1999. What were their priorities, who made alliances with whom? Who succeeded and why did they succeed? We will have to go into a discussion about what arguments a party used on the problem of PR-system versus of district system, and we will by that focus on exploring what group that dominated the process until the final decision-making. This will of course lead into an analysis of why one group for instance could favour district system, but that is not my main aim. The main aim leads us to uncover the research question for this thesis which is:

What were the main propelling forces behind the election laws, and whose advice, if any, did the legislators of the laws follow in their decision-making?

The question is based on the assumption that some parts of the elite probably have had more influence on the drafting process than others. The transitional period which we are discussing, is a period without a clear mandate from the «demos». Therefore one has to look for possible alliances between forces outside and inside the existing parliament. According to most theories on transitions, the regime has to make alliances with some parts of the opposition in civil society in order to carry out its policy.

³ Aceh and Irian Jaya are two of the outer provinces in Indonesia where separatists have been fighting for independence for decades

In the case of Indonesia it seems like huge mass demonstrations based on a stronger civil society with the student movements in the forefront had the power to force Suharto from power. So, some parts of the opposition have definitely played a role in starting the process that led the country into a transitional period. But it was the New Order-parliament that made the final decision on the laws. Therefore we have to raise the question about how the Habibie-administration, the members of parliament and the main forces in the civil society outside the New Order-democracy related to each other in the drafting process of the new laws.

The election laws themselves will in this thesis be viewed as being the final result of a process of electoral reform. I will therefore not go into a deeper analysis on what effects that the new laws may have had on the prospects of consolidating democracy in Indonesia. Nevertheless, there are several different reasons behind the variety of arguments which members of the parliament, members of the government, bureaucrats, governmental advisors, oppositional leaders, domestic and foreign academical and NGO experts on democratic transitions did bring into the debate. A narrow rationalistic approach at the micro-level will tend to state that everyone argues in order to secure his or her personal position by benefiting on the final decision. A more idealistic approach at the macro-level will suggest that one argues in order to reach some "higher" goals, which in this example could have been some of these: the establishment of a consolidated democracy; securing that Indonesia would continue to be a unitary state; avoiding balkanisation of the country; give the opportunity for everyone to establish parties and become represented in the parliament; and so forth. We will have to bear this in mind when analysing the different group's positions on the dispute over the election laws. However, the election laws, as they were decided, have to be seen as the result of a debate among many propelling forces that were fighting for their own political future. Hence, we have to assume that the members of parliament knew how the different parts of the election laws would influence their chances of succeeding, and even being reelected.

2.5.1 Hypothesis

A normal definition points that «hypothesis is an assertion about an empirical phenomena which one want to examine in a research in order to find out if it is true (Hellevik 1991: 37, my translation). Some basic hypothesis has been developed based on the research question in point 2.5 above in order to find out if they make sense. According to Karl Popper (in Føllesdal, Walløe and Elster 1990) one can never verify a phenomena, so the true and only meaning of scientific research is to falsify what is wrong and by that way, like peeling an onion, move closer to a thought verified core. In that respect, a positive answer to the arguments in the hypothesis below is not guaranteeing that it is true, but it will indicate that they at least are not falsified by the indicators that follow the hypothesis. Hence, a falsification of the following hypothesis will measure that it is incomplete in describing the actual phenomena. As a hypothesis needs an empirical foundation which is used for falsifying or establishing an approached confirmation of the hypothesis, we have to measure the terms in the hypothesis so that we can analyse their probability.

The hypothesis is as follow:

H1: The dominant group within the parliament would decide on an election law that would maximise its possibility of staying in position.

Too many political analysts have made their conclusions on the drafting process based on the results in the general election that were held in June, and hence they would falsify H1 since Golkar gained fewer votes than expected. But it is not adequate to use the election results as a meter for H1, because the actors did not know how the people were going to vote when they established the election laws. In fact, most analysis made before February thought that Golkar would gain most votes in the following election (Jakarta Post: 1998 and 1999). And even more, the actors in the

drafting process were themselves acting and discussing on basis on the existing knowledge at that time, a knowledge that certainly did not include the election results. So, rationalising post-election is not logical valid. What measures do we then have for H1? We could look at the statements made by members of the dominant party. But it is not probable that we will find statements in the specific political environment that would support the hypothesis, and if we happen to find those statements we have to compare them with the actual voting. Therefore, we will have to use a different measurement, and in the case of H1, the election law theory is to be used. I will argue that the main theories on election laws (see chapter 3, below) says how a dominant party may gain most seats in the parliament. If the decided laws are not comparable with the theory we can falsify H1.

In order of measuring the hypothesis we will have to look on this. I will argue that one of the factors that will maximise the dominant group within the parliament's chances to stay in position is that they will have to vote for election laws that would exclude forces that will lead to a balcanisation of Indonesia. On the other hand the ruling regime will as theories on transitions indicates, also have to co-operate with other parties, NGOs and/or parts of the civil society outside parliament in order of reaching its goals. This is an extremely important task in a transition phase. Lastly, the precondition for a transition towards democracy is often that the relation between forces within the society is changing. Therefore, new alliances between major forces must have been build during the transitional phase in Indonesia, as this will contribute to the chances of the ruling regime to stay in position.

2.5.2 The argument

The period from Suharto stepped down in May 1998 until the final decision on the three laws covering the electoral reform is characterised by a more open public debate on political questions, including the reform process of the election laws, than the country had seen for many decades. On the surface it seemed as if opposition groups had got an immense increased influence on the domestic politic in Indonesia.

The newspapers were filled with critical comments on the role of the government. There were demonstrations in the streets in several cities on several islands. Organisations prepared for establishing their own political party. But the final decision on the new election laws was to be taken by a parliament elected in the Suharto-era in 1997. Hence, it was dominated by Suharto's own Golkar-party.

I shall argue that the final design of the Indonesian election laws was the result of an internal split within the governing Golkar party. Golkar-members of parliament and Golkar-members of government could not agree. There were alliances between some parts of the opposition inside and outside the parliament with some parts of Golkar, and the alliances were changing from one subject to another according to the different policies the opposition had on the different subjects. I.e. there was no single united opposition as some parts of the opposition were happy when Suharto stepped down and became eager to maximise their chances of getting a political influence within the new election system, while other parts of the opposition were left out in the cold and were eager to continue fighting against the old regime.

The parliamentary debate on the election laws could have been expected to be an easy affair: Golkar, which had the majority of seats, should have been able to decide on whatever electoral system that best would suit itself and the chances of its representatives to be re-elected. Nevertheless, we have to remember that the drafting process happened in an era where the outside-parliament opposition had forced the old president to withdraw, so Golkar had to relate to forces in the civil society. An interesting thing is therefore that members of Golkar continuously made compromises with each other, with representatives from other political parties, and with opposition outside the parliament up to the day of the final decisions in January 1999. It is difficult, therefore, to describe Golkar as one single actor with only one agenda. Because of this it does make sense to go into a deeper analysis of what were the propelling forces behind the election laws. We know that a broad civil opposition based on NGO's and students were active in demanding Suharto's withdrawal as president through the demonstrations that took place during the spring of 1998. Still,

I will argue that the student movements were almost without influence in the discussion on the election laws. Hence I will argue that parts of Golkar made alliance with representatives from some of the larger NGO's, and that this was the formula that resulted in the final decision in January 1999.

A key argument is also that western based experts on election laws and transition to democracy, who tried to give advice's to the people involved in the drafting process, were to a very little degree listened to. Their main arguments on what election system they thought would be suitable for the Indonesian society were to a very little degree taken into consideration in the Indonesian debate and in the final decisions on the new laws. But the people drafting the new laws related to western based theories, like Lijphart. By comparing theories on election laws with the actual process in Indonesia, we will demonstrate that western theories are not always suitable for societies in Asia that want to create their own stabile democracy, and show that there are several paths towards democracy. One possible reason for this is that most theories on election laws are empirical based on actual development of democracies in the western world, and are not thoroughly useful as a theoretical base for a process of building new democracies.

Nevertheless, we have to assume that if not everyone participating in the debate, so at least that the people involved in the central drafting comities as for instance the seven members of Tim Tujuh⁴, central politicians in the main parties and in the governmental departments, and some people in the opposition had certain knowledge on how election laws works.

I will therefore state that the argumentation different political groups used for choosing for instance A instead of B or C varies a lot. It does not have to be rationale in the sense that they choose A because western based theories on election laws say that they then would gain more votes. They may have chosen A because of historical

⁴ "Tim Tujuh" is Indonesian and means "Team of Seven"

reasons, or because of feelings. One may also have chosen A because one thought that this was the only alternative for obtaining a stable and consolidated democracy in Indonesia. An analysis of these factors will contribute to the understanding of which forces that were propelling when new election laws were adopted in Indonesia.

2.6 The structure of the thesis

In the third chapter I will discuss some methodological considerations. The fourth chapter brings an overview of the events that took place during the period between Suharto stepped down and the time when the election laws were adopted. The viewpoint of different actors and advisers will also be discussed here. Thereafter, in chapter number five and six the theoretical framework will be discussed. In the last chapters the result and the debate t will be analysed before I end up by adding some concluding remarks.

3 METHODOLOGICAL CONSIDERATIONS

3.1 Research design

What methodological approach is this thesis based on? The basic sources for this research are not quantitative data. Therefore this study is a qualitative study. The units are single-persons, organisations, political parties and a government. The variables are innumerable, though concentrated on what we may call "attitudes to election laws".

The main purpose for this study is to investigate what the propelling forces behind the adaptation of the Indonesian election laws adopted in January 1999 were. Hence, the explanandum in this thesis is "the propelling forces". Further, what is to be explained is "the different actors expressed attitude or viewpoint to the different paragraphs or variables in the election laws", and "the final adopted election laws" themselves.

One research design, which has often been applied when the purpose is to describe and explore a contemporary phenomenon, is case study analysis. A case study is the best alternative for research design. According to Robert K. Yin, a single case study is an appropriate design when "the case represents an extreme or unique case" (1994:39). The study in this thesis is on the case of the election law reform. There are also several actors that have to be incorporated as units in this study. According to Yin three conditions must be fulfilled when using case study. First of all, the research questions have to be characterised as "how-" or "why-questions". Second, the investigator cannot exercise control over the investigated events. Third, the focus has to be on contemporary as opposed to historical events. It does make sense to argue that our research can fulfil these criteria. Although the research question does not contain neither a "why" nor a "how" is the main characteristic contained in the underlying question about why the election laws were made in the way they were (see chapter 2.5 above). Furthermore, we do not have the possibility of exercising

control or manipulate the events. And finally, the research is on contemporary events, although the completion of this thesis have taken some time. So, our analyses fits the the criteria of a case study design. I will therefore argue that we use a comparative case study in this thesis, since we are comparing different actors or units. And according to Yin, «no broad distinction is made between the so-called classic (that is, single) case study and multiple-case studies» (ibid.: 52).

3.2 Sources and collection of data

Writing this thesis in Norway, one may not assume that the accessibility of sources is high. However, there are fortunate possibilities in this time of Information Technology to have access to a variety of qualitative data on the debates in Indonesia. Newspapers in Indonesia covered the debate, and they were themselves an arena for public debate by the articles that were written there. And thanks to the new-born freedom of speech in the Indonesian public life in general, and particularly in the press, the accessibility of adequate information about the political developments that previously under Suharto was dulled, has reached a sufficient level for writing this thesis. Due to the fact that the completion of this thesis has taken a while, analysis of the drafting process of the election laws have been finished by other, so that there are also sources and analysis available.

This thesis is based on both primary and secondary data. The primary data includes the final versions of the election laws, voting results in MPR, proposals for the laws made by different actors, written statements in newspapers and magazines, and articles and books including theories on election laws and theories on transitions to democracy. By primary data we will also refer to interviews conducted by the author. The secondary data includes sources collected by other researchers and students, as well as comments on the drafting process given by people or institutions that were unable to intervene or influence in the actual Indonesian debate given the facts that they were conducted after the decisions on the laws were made.

3.3 Interviews as an information source

Interviews are one of the primary data that have been used in this study. It would have been much more difficult to study the drafting process without having the possibility of travelling to Indonesia and interviewing some of the people involved in the process. Although the availability of data is surprisingly high (see 3.2 above) the aim of this study is to uncover some connections which have not been too transparent. In that respect the interviews represent a necessary and valuable information source, as much of the information collected through the interviews is not easily available in written material.

The interviews were conducted during a five weeks stay in the Indonesian cities of Jakarta and Yogyakarta in August and September 1999. All of the informants except one, spoke English fluently, as well did the author of this thesis. Communication was therefore not a problem except for the single case where translation had to be conducted by a third person. The interview based on a translating third person is therefore strictly spoken only a secondary source. The interviews were not recorded on a tape, but I took brief notes by hand. When the interviews were finished the entire interviews were written on a computer.

Yin draws a line between interviews of an open-ended nature, a focused interview and those that entail more structured questions (ibid.:84-85). The latter is similar to a formal survey. The focused interview is more conversational, and is structured around a set of questions. I have conducted focused interviews as a common interview-guide for all the interviews was written before travelling to Indonesia (see appendix). This guide consisted of fifteen open questions regarding the main research question and the final design of the election laws. It was not always enough time to go through all of the questions in the interviews, and the answers that the interviewees gave resulted often in unprepared follow-up questions. Even more, as an example there was of course no use of asking questions about inside parliament conditions to people working for an international NGO. So the questions were

adapted to the position of the person interviewed and the actual time-limit for each interview, and each interview had therefore to be prepared individually.

The interviews started by a presentation of myself and my aim of conducting the study and selecting the informant. Then the questions were presented successively. Ten of the total number of fifteen interviews lasted for approximately one hour, only five interviews lasted for less than thirty minutes. All informants were eager to answer all general questions, but some of them were more reserved when it came to questions regarding their own standings and participation in the process. As the aim of the interviews was to be more explorative than provocative, the first questions were of a more general character while the last questions in some cases were on more tense issues. The reason for arranging the interviews in this way was that it is extremely important to build confidence with the informants as many of them daily are exposed to critical questions from journalists. It was therefore important to state that the aim of the interviews were of academically interests. It seemed as if the informants in most of the cases were satisfied with having the opportunity of giving more in-depth answers to the process that at that time already were passed by six months.

In order of increasing the reliability (see 2.5 below) of the information given by the informants, the information given by the informants were cross-checked in two ways. First, other informants were asked to comment information given by another informant, and information collected has also if available been cross-checked with secondary literature. Second, an informant was asked several questions covering the same issue in order to minimise the possibility of misunderstanding.

3.4 The selection of informants

Who were the persons that were interviewed, and why were they chosen?⁵ Professor Olle Törnquist, the supervisor of the author, who himself has been conducting research on Indonesian politics since the 1970s gave a list of names and recommendations on which persons that could be fruitful to contact. As the purpose of the interviews was to get a better knowledge of what happened in the drafting process of the Indonesian election laws, the aim was to make interviews with people involved in the process at different levels. Therefore, members of different political parties were interviewed. This included one member of each of the following parties: The governing Golkar, PPP (oppositional party allowed by the New Order-democracy), PAN and PBB. It was also given priority to make interviews with members of the groups of experts that had been given proposals to the formation of the laws. Hence, interviews were arranged with two members of Tim Tujuh, one of the political scientists at LIPI, and two of the members of the NGO-consortium. Furthermore, two human rights lawyers who have been active in the public debates on Indonesian politics were interviewed. Finally, four Non-Indonesians who are experts on Indonesian politics, and in three of the cases also representing the three international organisations NDI, UNDP and International IDEA, were used as informants. In addition to those persons mentioned above, meeting with other Indonesians and expatriates, helped broaden the perspective on the Indonesian political life.

Some of the informants were contacted by fax and/or e-mail before leaving Norway, and agreements were made to set up a detailed time-schedule when I arrived Indonesia. Most of the informants were though not contacted before departing to Indonesia. Therefore the offices of most of the informants were contacted and appointments for interviews were made by a personal attendance. In a few cases one informant could give advice of interviewing another person who was unknown to the

⁵ A complete list on the interviews is written in the references at the end of this thesis

author before arriving Indonesia. Unfortunately, it was not possible to conduct interviews with all the persons who one hoped to meet, but nevertheless the list of persons interviewed includes more people central in the process than what one could expect to meet as a cand.polit degree student. There is of course still a risk that the person conducting the interviews may have got a too subjective and disproportional review of the process, as a possibility of interviewing for instance representatives from ABRI, central governmental representatives or finding a person representative for the students could have helped broaden the perspective, but given the limitation on time spent in Indonesia this was not possible. One therefore has to counterbalance the information given by the informants with other primary and secondary data in order of presenting an accurate description on the views of the different actors involved the process.

Another issue that one has to be aware of is that it seemed as if none of the informants, directly involved in party politics or not, were trying to express an objective view on the political debate on election laws. This also includes the foreign experts. Every informant therefore clearly seemed to have their own agenda with what they presented. It is of course difficult to be impartial to political debates, the problem of not being able to be objective when describing political events is well-known, but it is even more important to be aware of this when analysing the results of the interviews made in the tense political environment in Indonesia. What furthermore may reduce the reliability of the data collected through the interviews is the problem of guided selection. In some cases one informant gave advice on whom to contact for the next interview. There are two reasons why this happened: First, the limited time and knowledge of whome to contact made it easy to give priority to the advice's given by an informant. Second, given the fact that one often has to use a reference person in order of getting access to informants, it was easy to contact people where one informant could be used as a reference when making the next appointments. Therefore, a way of trying to increase the reliability of the information given through the interviews is by referring to other data, primary or secondary. Data

supporting the statements given in the interviews will increase the reliability of the interviews as an information source.

4 THE DEBATE ON THE REFORM OF THE ELECTION LAWS

What were the different actor's positions in the debate on the election laws? In this chapter we will give a brief introduction to some of the different actor's points of views and how they argued in the debate that took place until the new laws were adopted in the end of January 1999. It is important to focus on this simply because there normally is a close connection between the points of view in a debate and how the same person will vote when a final decision has to be made. The problem though, as we will see in this Indonesian case, is that the representatives in MPR who were the ones who were deciding on the law reform, were very silent throughout the public debate on the reform. On the other side, those who were most active intervening in the public discussions were therefore not necessarily in a position to decide on new laws.

This disproportion between the group of people debating and the group of people deciding is one of the interesting features in this thesis. By focusing on an open public debate we are also focusing on a kind of debate that is a feature of a kind of political system that Indonesia at the time of the election law-debate was yet to enter into: Democracy. Hence we should be aware that not every politician or political interested person in Indonesia might have felt comfortable enough to take part in the public debate that took place in the sphere of the newly gained freedom of speech. Therefore, we have to assume that not everyone interested in the debate on the election laws knew, dared or were willing to take part in the discussion.

It is of course impossible to cover all actors at all levels in the society, so we have to concentrate on some main actors. We will choose to focus on the main political forces that acted on the national scene, since we are mainly occupied with reform of the laws regulating the general elections. The appearances of international experts on democracies were significant in the Indonesian debate; hence we will also have to elaborate on their contributions. In addition to the public debate that took place in the

media on everything from smaller parts of the election reform to its totality, we will also make a deeper analysis of the contribution that some academic, NGO-based and governmental groups brought into the drafting process. The coverage of the debate in media will be because of my limited knowledge of the Indonesian language mostly include English-based sources.

The following chapter will not give a chronological presentation of the drafting process, but will instead aim to discuss different actors' contributions to the debate.

4.1 Team of Seven

President Suharto stepped down on May 21st 1998, and someone had started to think of political reform before he stepped down. One week before, on May 14th, Professor Ryaas Rasyid was asked by Hartono, Minister of internal affairs in Suharto's government, to form a reform commission (Darusman 1999). From this we can conclude that it was not only Habibie's own will that started the process of democratisation.

According to Andi Mallarangeng, Rasyid then asked six other political scientists to join his technical team who became responsible for drafting the new election laws (Mallarangeng 1999). They were called Tim Tujuh (Team of Seven), and consisted of Rasyid, Mallarangeng, Afan Gaffar, Ramlan Surbakti, Hamid Awaluddin, Djohermansyah Djohan and Anas Urbaningrum. Four of them had graduated from Northern Illinois University. The new minister of home affairs in Habibie's government, Syarwan Hamid, agreed on this group. Team of Seven gathered for the first meeting on May 29th.

At first Team of Seven was given three months to draw a proposal for new election laws, but the parliament was in a hurry and asked them to complete a first draft after only two months. When they started their discussion, they "enjoyed free rein to draft the best electoral laws they could" (Hosen 2003a: 491). According to Andi Mallarangeng they had free discussions, but they knew that they were responsible to

the minister of Home Affairs (Mallarangeng 1999). The minister of home affairs were supporting them when they first met to discuss with him in July.

Team of Seven send their draft to the Minister of Home Affairs at August 2nd and it stayed at his office without any official comments until September 16th. Then they got it back, discussed further, and presented their final draft in November 1998.

According to Mallarangeng (1999) they first drafted a true district system, but Golkar refused the district system at the first time. Mallarangeng told me that a lot of Golkar-members were afraid, because they are living in central areas (i.e. Jakarta) and were afraid to fight face to face with other representatives in the districts. This was also confirmed to me by another Team of Seven-member, Afan Gaffar (1999), who said that Golkar-members of parliament rejected the district system because non of them had a local level base as they had been appointed by the party elite. If district system had been chosen, they would have to spend time at the local level⁶.

Team of Seven then had to rethink their proposal, and ended up with proposing a compromise between district and proportional (PR)-system. This hybrid was according to Andi Mallarangeng (1999) almost a German system, but it became a little more complicated when it was finally drafted in parliament.

Further on Team of Seven suggested to separate MPR and DPR and to reduce the amount of members in MPR from 1000 to 700. On the other hand they suggested giving the military, ABRI, 55 seats in the parliament (DPR). In their first proposal this number was 50 seats (10% of the seats). On the other hand they proposed that the military was prohibited from managing a party.

They also argued for free elections and in favour of a multiparty system, but Team of seven did not argue in favour of regional parties. Again, according to Mallarangeng

⁶ This story is also confirmed in Nadirsyah Hosen's (2003b) doctoral thesis where he has been interviewing the leader of Team of Seven, Professor Ryaas Rasyid, on the same issues. I did unfortunately not get the opportunity to meet with Rasyid when I made my field visit to Indonesia.

(1999), regional party was not seen as good for the nation and they were afraid of Balcanisation. Team of seven thought that introducing district system was a way to compromise on the issue of giving power to the regions. On the other hand they proposed that a party needed to have established party organisations in at least 9 out of Indonesia's 27 provinces, and in at least half of the regencies or municipalities within those nine provinces in order of being allowed to contest the elections⁷.

The situation for the Team of Seven was somewhat different from that of the other groups proposing their ideas for the election laws. The other groups, LIPI, NGO-Consortium and so on, brought their idea into the public debates one time, and stayed with their proposal through the entire debate. Team of Seven was discussing with the Minister of Home Affairs, the Cabinet, President Habibie and others, and got new ideas or guidelines, and then returned to their work rethinking their proposal. Hence, Team of Sevens final proposal is a result of more than one group's ideas.

Mallarangeng told me that "it all started as an intellectual debate, and thereafter we had to compromise and become more pragmatical" (1999)⁸.

4.2 LIPI

The Indonesian institute of Science, LIPI, was asked by President Suharto as early as February 21st 1995 to analyse and give advice to him on what kind of electoral system that would suit Indonesia (LIPI 1998: ix). The fact that they were asked this early does not tell us that Suharto was ready to withdraw from authoritarianism at that

⁷ Team of Seven first demanded that a party needed to have party organisations in 14 of the 27 provinces in Indonesia, but they reduced this to 9 provinces. According to my interview with Andi Mallarangeng they reduced it since they wanted to show some kind of accommodation to the new parties that had to establish themselves and register within a very short amount of time. Sumatra has got 8 provinces and is the island with most provinces, hence a party therefore needs to have established party organisation in more than one island. This is therefore seen as a guarantee against regional based parties.

⁸ Although Team of Seven started their work in May 1998, before most international organisations had started to give advices on an democratic reform in Indonesia there was one man who gave advices to Team of Seven. Kevin Evans, an Australian citizen working for United Nation Development Programme (UNDP) in Jakarta, was invited into the debate in Team of Seven in the beginning of July 1998. According to my interview with him (1999) he said that he was invited as Ryaas was trying to catch up people who were interesting in district system. UNDP got from July 1998 a role in giving technical assistance to both logistics and voter education through UNDP's governance programme (UNDP 1999).

time, but it does tell us that even Suharto analysed if something had to be done within the New Order democracy.

LIPI evaluated the election system that had existed from 1971 to 1992, and discussed openly about the risk factors different election system could get. LIPI suggested changing the system gradually from proportional representation to district system. They thought that this should be done in three phases, as they argued that Indonesia was not ready to change system immediately. The three phases were as follows for the three elections to come (LIPI 1998: 31):

1997: Improved PR-system.

2002: Transitional period with more district system. 50/50 district and PR-system

2007: Perfected district system

According to my interview with Mochtar Pabottingi who was central in LIPI's work, their proposal was never discussed in the parliament as it was a secret thing. They even did not get to know how Suharto reacted to their proposal (Pabottingi 1999). After Suharto withdrew in 1998, LIPI also took part in the public debate, and their proposal was printed (LIPI 1998).

LIPI also argued that the representatives to the parliament should live in their district for at least one year before the election. And in the third phase, they proposed the military should not be represented in the parliament, but only in Peoples Consultative Assembly (MPR). This would mean that *dwifungsi*⁹ had to stop.

⁹ *Dwifungsi* literally means two or dual functions. The doctrine says that ABRI, because of its historical role in the struggle for national independence have two roles. One is in defence and security, the other is in social and political management. *Dwifungsi* resulted in the situation where ABRI was represented in parliament and that they saw themselves as the guarantee for national stability and unity (Here from Eklöf 1999: 4)

4.3 NGO-consortium

There was also another group who drafted a complete proposal for new election laws. This was called the NGO-consortium and consisted of members from 22 different Indonesian human and legal rights organisations, both national Jakarta-based and local organisations, who by their own started to draft a proposal for election laws in order of presenting some input to the debate. The group was led by YLBHI, the Indonesian Legal Aid Foundation, and they finalised their proposal in September 1998 (Konsorsium Reformasi Hukum Nasional: 1998). According to my interview with Asmara Nababan (1999), the consortium gathered for the first time in 1997, when it was sign of decline of Suharto's power. Nababan told that most of the NGOs in the consortium were surprised when Suharto withdrew from power in May 1998, and that there was no time to organise a big opposition. The consortium was working on highspeed as most of opposition outside the parliament was not too interested in the drafting process, as their main interest was to form political parties and have new elections, so the NGO-consortium did not want to delay that process.

The 22 organisations in the consortium discussed for 10 days in August and September, thereafter they invited political parties to comment their draft. They also went to different provinces to get some input from outside Jakarta. According to my interview with Bambang Widjojanto, the director at YLBHI, a lot of the parties did not at all concern about the election law process (1999). They also went to the three political parties in parliament and to the military (ABRI), but only Golkar was at first interested in discussing their concept. After a while they challenged PPP, who was not preparing anything, and the consortium thereafter gave advices to PPP.

The consortium proposed a combination of proportional and district system. One of their main agendas was that all members of DPR and MPR should be elected by the electorate. According to Widjojanto (1999) YLBHI would probably have been represented as a functional group, but they did not want to propose a system were

they could benefit from the functional group representation. The NGO-Consortium opposed that kind of a double representation. Therefore they also argued that *dwifungsi* should end.

4.4 Department of Justice

Although the Minister of Home Affairs had contacted Professor Ryaas Rasyid and asked him to draft the new laws, the Department of Justice made their own proposal. However, there are very few findings that their proposal was widely discussed. I will therefore, with one important exception, not elaborate more on their proposal here. The exception is that as long as their proposal was not widely discussed, we can therefore conclude that the Department of Justice was not as a department among the propelling forces behind the new election laws. We can also conclude that when watching the table below, as we will find that their proposal in main issues was far away from the final result of the debate on the election laws.

4.5 International inputs to the debate

Most international actors were delayed in the sense that they did not react before the different proposals were handed over to the parliament; hence they were more occupied in advocating the election itself and did not put their focus on the drafting process. Nevertheless, there were some inputs to the debate on election laws. One of them was Kevin Evans from UNDP, who joined with Team of Seven in their discussions. Besides that, Ford Foundation also arranged a conference on the drafting process in Jakarta and National Democratic Institute (NDI) arranged an international conference on political reform together with University of Indonesia in July 1998.

Table 4.1 Comparison of proposals on main issues of the election laws

Department/ Committee	System	Election organizer	Military (ABRI) and Civil Servant (PNS)
Suharto's new order laws	Proportional	LPU – government controlled	75 ABRI in DPR, 425 is elected. 500 in MPR were chosen from military, regional and functional group. PNS have to vote for Golkar.
Team of Seven (Department of Home Affairs)	Combination of district and proportional	Election Committee (Government Representatives, Parties and People)	55 ABRI in DPR. PNS/ABRI is prohibited from managing a party
Department of Justice	District	LPU (same as the old law)	ABRI and PNS do not vote and elect
LIPI	Improved proportional	Independent Election Organiser Secretariat	Anyone from ABRI and PNS who want to enter the DPR/MPR must resign. ABRI represented by 54 in MPR
NGO Consortium	Combination of district and proportional	Autonomy and independence with facilities provided by the government	All members of DPR and MPR are elected through general elections
The final laws	Hybrid between district and proportional	Election Committee, KPU,(Government Representatives, Parties and People)	38 ABRI seats in DPR out of 500. The others are elected by the electorate. 65 functional group representatives in MPR and 135 elected from the provincial parliament (DPR I).

Source: Adnan Buyung Nasution has in “Some Notes on the Electoral Reform in Indonesia”, in Liddle (ed.) (2002), *Crafting Indonesian Democracy*, Bandung: Mizan, pp 135, made the framework for this table, but Nasution did not include the old laws and the final new laws in his table

Most international contributors to the debate, if they entered the debate before the drafts were presented to the MPR, or after, were proposing idealtypes of democracies, as learned from theories on election systems. Hence, most of them would for instance recommend that the military should not have any given seats in parliament, that an independent election committee should be established, and that one should choose a clear and understandable election system which means either a clearcut proportional or district system.

However, as most international contributors entered the debate too late, and as we can see were little debated, we will leave their positions with little attention for our further discussions, except for some few comments. As the Asian Crisis came to Indonesia, IMF was instrumental on a macro-level to the fall of Suharto when they demanded economic reform. And President Bill Clinton and The US State Department urged Habibie in May 1998 to “set a firm date for elections” (Hosen 2003b: 134).

Hence we can from these two examples at least conclude that international actors were instrumental for the transition towards democratic elections in Indonesia, but we can find little evidence that they played a key role in defining the content of the election system.

4.6 The debate in media

One of the first things Habibie did as a president was to immediately free the press and the party system by stating that his government would not ban publications or prohibit the formation of new parties as Suharto had done.

This of course led to a more intensive debate in the media than what had happend during Suharto’s time. On the other hand it led to a situation where a lot of new political parties were founded, all though not all of them were, as we will see later on, allowed to contest the election. I will argue that the new openness came as a literally shock to the Indonesian people. Therefore did not everyone use their possibility to

tell their points of views to the Indonesian people. As late as in 1994, three national publications, Tempo, Editor and Detik were banned because the government thought they threatened the national security. We might therefore think that there was fear among some of the opposition groups that this could happen again during the Habibie-presidency.

Nevertheless, the debate in media on the political development was more extensive than anytime during the previous decades. This gave two major results. Firstly, it gave a huge amount of written and public sources that gave the opposition the possibility of reading, listening and taking part of the debate. It gave the people of Indonesia a better option to understand and follow the political life as it is. It also gave a well of sources for those who want to study the transition. Secondly, the new openness also led to a new situation where not only opposition was discussing, but where also members of parliament and the government had to take part in public debates to retain their positions.

5 THEORIES ON ELECTION LAWS

The world has seen a lot of democracies appearing for the last decades. The Structural Adjustment Programmes (SAP) which were implemented by the World Bank in a lot of the poorest countries from 1986 onwards, formed the start of what Samuel P. Huntington has called the «third wave of democratisation» (1991). The downfall of the communism in Eastern Europe strengthened this wave further, and today more than half of the population in the world lives in what we would like to call democracies. However, the new-born democracies require a set of rules which define how the election is going to be arranged, what kind of parties that are allowed to contest the election, how the number of votes is going to be translated into seats in the parliament and so forth. These rules are the election laws.

The election laws differ from one regime to another. Even the authoritarian states that have so-called one-party democracies have their own set of election laws. Indonesia too, had election laws during Suharto's New Order democracy. It is obvious that the different ways the election laws are defined in various countries makes a great impact on at least the party structure and the allocation of seats in the parliaments.

There have been written many articles and books on the different political consequences of different election laws. Theories on election laws often prescribe that a different set of laws are more suitable to one state than another, and hence X_1 should become chosen instead of X_2 in order to have a better possibility of consolidating the democracy. We have to take for granted that those who were responsible for the drafting of election laws in Indonesia at least had some notion on the existing literature on this field of research. Therefore is it important to analyse and discuss some of the most important theories on election systems, in order to be able to make a deeper analysis of the drafting process that took place in Indonesia.

Because of the overwhelmingly amount of literature, theories, which do not relate to anything in the actual Indonesian debate will not be discussed here¹⁰.

At the same time it is necessary in this thesis to have a discussion not only on the election laws itself, but also on theories on transition to democracy. There are a lot of theories that have evolved on transitions side by side with the enormous wave of democratisation the world has seen the last decades. Some of these theories are concentrating on the possibilities for creating a stabile consolidated democracy, while other are more dealing with the building of different alliances within the transitional period. I will in the next chapter take a closer look on some of the theories that are concentrating on the building of alliances, since this hopefully can give some valuable inputs to the question of understanding which forces that were most powerful in the drafting process of the new election laws in Indonesia.

5.1 Election laws - a definition

Are election laws and electoral laws identical? One of the findings while reading literature on this field is that there seem to be confusion on the meaning of the terms as they are often used side by side as if they had the same interpretation. One could of course in a thesis like this continue this confusion by allowing both terms to become used as the same term. However, I will try to make a distinct definition of "election laws" before we enter the field of discussing different political consequences of these laws.

Douglas W. Rae makes a distinction between election laws on one side and electoral laws on the other side. According to Rae "electoral laws are those which govern the processes by which electoral preferences are articulated as votes and by which these votes are translated into distributions of governmental authority among the competing political parties" (Rae 1971: 14). With "governmental authority", we

¹⁰ Theories on Singel Transferabel Vote and so forth

would normally think of parliamentary seats. Richard S. Katz argue that this definition only is satisfactory if we assume that the parties are totally cohesive and in total internal agreement, so that their candidates are interchangeable and do not turn over to another party (Katz 1986). Rae defines on the other side election laws as a broader class of laws which pertain to the conduct of elections (Rae 1971: 13-14). Election laws therefore seem to be more a common term for all the laws that have anything to do with the election.

In my opinion one can therefore argue that the election laws normally give answers to four questions that also were central in the Indonesian debate:

1. Who has the right to vote?
2. How are the votes going to be translated into governmental authority/seats in parliament?
3. Who is eligible to contest the elections?
4. What is the power of the elected individuals and the institutions they are going to represent?

One will see that these four questions can cover presidential and parliamentary elections, and both general/national and local elections. I will use these four questions as a guide for my further discussions on the discussion on the laws in Indonesia. It is nevertheless important to state that these questions are only guiding for the course of the analysis, hence they are not to be seen as research question by their own.

5.2 Who has got the right to vote?

One of the issues that the election laws have to prescribe is a definition of what kind of criteria that is necessary in order to become a part of the electorate. This is one of the themes that have been widely discussed during the centuries of the long transition to democracy within the European context. We know from the polis-states in the

antique Greece that only a small minority of the men were defined as citizens who got the right to vote. The right to vote was for centuries a right reserved for men in the European democratic history. This distinction by sex led to the formation of the early feminist-movement in some countries during the late 19th century. The right to vote has in some countries been reserved for people from certain ethnic groups or colour of skin like in The Republic of South Africa at the time of the apartheid-regime. One of the criteria's that historically has been used in many countries is that only those people who own land or have a certain income can be given the right to vote. This has among other things led to a strong noble class in some of the nations that have been consolidated for a long time like Great Britain. The foundation for the labour movement in many European countries has been built on the labour fight for influence and right to vote. According to the work of Stein Rokkan, every expansion of the right to vote in the European nations have given the birth of a new kind of parties (Rokkan 1987).

All of these historically strong conflicts are normally pre-solved and therefore no subject for discussion when election laws have to be revised in connection with transitions to democracy nowadays. The freedoms of speech and right to vote are officially recognised as basic universal rights in most countries.

In the case of Indonesia, there was a discussion regarding the sivil servants and their rights to vote for any party, as they under Suharto were forced to select Golkar. Under the new laws they were given the freedom to vote for any party. The fact that this issue was discussed in the debate in Indonesia, gives us an idea of what kind of authoritarian regime that existed under Suharto. On the other hand it seemed at last to have been a common understanding that everyone, including the sivil servants, should have their freedom to vote for any party in Indonesia. This represents a new openness, and less governmental control, and it may therefore be a sign that Golkar opened up, or that Golkar was forced to give up control.

Even though every adult person normally on equal basis is given the right to vote, there are still a lot of disagreements on how one shall count the votes and translate

them into seats in the parliament. This may be an arena for governmental manipulation of the will of the people.

5.3 How are the votes going to be translated into seats in the parliament?

What happens to a vote after an elector has made his decision and voted in the election? Even if all people above a certain age have got the same right to vote will it not be sure that their vote will count for the same when the total number of votes is translated into seats in the parliament. The slogan "one man, one vote" does not necessarily lead to a new slogan "1000 votes, one M.P". It might very well happen that there is a structural inequality that makes one vote become more important than another, so that in one district 1000 votes will be enough for one seat in the parliament, while 2000 votes is necessary in the neighbour district. What are the arguments that can make such an inequality out of the equal right to express oneself possible?

One of the main themes in the drafting processes of new election laws in Indonesia was the discussion on how one shall translate the number of votes into seats in the parliament. There are several systems, but most of them can according to Lijphart be put into two main groups (Lijphart 1984). The first one will here be called a district system and the second one will be called a proportional system. The different systems may have an impact on the total number of parties that normally can play a significant role in the elections. Lijphart's theories were central in Indonesia, and in one debate between Mallarangeng from Team of Seven and Pabottingi from LIPI we can see how the understanding of the system described by Lijphart was different between them:

Pabottingi defended the "proportional" electoral system, which had been used in Indonesia for decades up to and including last years' elections. Under it, voters choose parties, not people, to represent them. Meanwhile Mallarangeng

sang the praises of the district system, in which voters get to choose who represents their area. The proportional system had long been misused by the past Suharto administration to lock down politics. Only three parties were allowed to compete, and one -- former ruling party Golkar -- was so well-funded and well-supported that polls were basically one-party contests.

Mallarangeng argued that under a district system, people would know their representatives, who would in turn have to be both accountable and responsive to their constituents. This was something sorely lacking even in today's parliament, where MPs are still picked by parties, so many provinces and districts are often represented by strangers from Jakarta. Pabotinggi held that the proportional system was an adequate check on popular ignorance, and worked well for a country as diverse as Indonesia. Mallarangeng told Pabotinggi to update his theories. Pabotinggi shot back by reading a sentence from a political science tract -- something along the lines that district systems work best in homogenous societies. "That book must be from the 50s!" scoffed Mallarangeng. ("1984," Pabotinggi retorted.) (Asiaweek 2000: 19)

One of the things the theories say is that different compositions of the population could, as Pabottingi said, suit one system better than another system. I will here discuss various aspects of the two systems as it was discussed in Indonesia.

5.3.1 The district- or majority system

The district system is based on the British model and is also called the majority system. This electoral system has its main feature in the single-member district plurality or majority system. Simply spoken this means that the area where there are an election is divided into several smaller districts from which only one single person is going to represent each district. This means that in order to represent a district, one must get a majority of the votes within that district. Some nations require a simple

majority and other an absolute majority. If an absolute majority is required there normally has to be conducted a run-off second ballot between the top two candidates if no-one has got a majority off the votes after the first round. The district system will therefore produce only one winner from each district and leaves the minority unrepresented no matter how big it is. This will furthermore tend to let the party who gains most votes nation-wide become overrepresented in terms of parliamentary seats.

One of the arguments for using the majority system is that it provides a clear cut choice for voters and is simple to understand. Furthermore, it transfers more power from the party organisation and towards the electorate. The party organisation will get less power to choose which people that are going to represent the party in the parliament because the electorate in each district has got the possibility of sanctioning the candidate that is to represent their district. A top candidate for a political party will therefore not be sure to be elected, and she has to compete with other candidates at the local arena from which only one person is to be elected (Reynolds and Reilly 1997: 28f). This may further lead to a more person-oriented election campaign at the district level, where the electorate will face the candidates more than political parties are fighting each other for the single parliamentary seat in the district. This was also the argument used by Mallarangeng and Team of Seven. District system would move the power away from Jakarta.

What consequences will follow from the majority system? Lijphart bases his theory on the main hypotheses that is referred to as Duverger's Law, based on the theory that Maurice Duverger formulated in his book «Political Parties». His hypothesis is as follow (1959: 217):

The simple-majority single-ballot system favours the two-party system.

Of all the hypothesis that have been defined in this book, this approaches the most nearly perhaps to a true sociological law. An almost complete correlation is observable between the simple-majority single-ballot system and the two-party system..... The exceptions

are very rare and can generally be explained as the result of special conditions.

Although Duverger quoted that national factors also are very considerable and can make some variations from his hypothesis, do most theories after this seem to incorporate his law as a weberian ideal type without much discussion. There seem to be a tendency to accept that the district system will produce a dualism when it comes to party formation. Duverger's hypothesis seems by far to be right when it comes to Great Britain and the US where respectively Labour and the Conservatives, and the Democrats and the Republican Party are playing the dominant role in those two countries parliamentary politics. And in the handbook of electoral system design published by the IDEA, the international institute for democracy and electoral assistance, it is also a clear guidance to new democracies that a majoritarian or "first past the post"-system will lead towards a competition between two major parties (Reynolds and Reilly 1997: 28f). But it is very difficult to argue that the same system is accurate in the case of India, where more than a dozen parties have got seats in the People's Assembly. One of the problems with Lijphart's theories is that he excluded India from his analysis, probably because it did not fit into his theory, although Lijphart used different arguments for doing so (Lijphart 1984).

So there is none direct implication that district system will produce a two-party system and that it therefore could have been the best for Golkar, who was the only party that had a strong party organisation represented in all districts of Indonesia. Does this mean that we can falsify Duverger's Law totally, or is it more indicating that we should search for some special conditions or variables which may influence the district system to produce other party systems than indicated by Duverger? We do not necessarily have to falsify his law totally, although we by strictly methodological terms have to, but we may produce a better result if we reformulate his hypothesis. If we suggest that the most important factor in terms of party formation is that the simple-majority single-ballot system tends to produce two dominant parties in each single district, we will maybe have a better hypothesis. We may also have to put an

important note on the relation between the variables. Duverger's Law suggests only a one-way causation where the simple-majority single-ballot system is causing a two-party system. We might ask if this is the only possible causal influence, or may we also make a change so that the dependent variable becomes the independent one and vice versa? What if we also suggest that the two-party system may favour a simple-majority single-ballot system? Does it in some cases make sense to say that the number of parties can make an impact on which system of seat allocation there will be in a nation or state? If we look on the history of the democratic development in Europe we will clearly see signs of such a causal relationship. There was for example a district system for a long time in Norway with only two parties. When a third party, the Labour Party, gained more votes during the first decades of the 20th century and became a threat for the two traditional strongest parties, the two parties decided to change to a proportional system in order to secure that they would still be represented in the parliament (Furre 1992). It is important to notice that there can be another causal relation than what we find in Duverger's law, because in the case of Indonesia there were existing parties who decided on the election laws during the process from May 1998 until January 1999. And those Indonesian parties could possibly have their own agenda regarding the decision on election system. The three legal parties were all represented in the parliament through a proportional representation system, although one of them, Golkar, had a clear majority. When we go into the debate in Indonesia, it seems that the actors of Golkar knew the consequences of Duverger's law. They feared that Golkar could loose more votes in an open multiparty election, so that they could get fewer seats in parliament than with a combination between PR and district system. Their fear of loosing the battle towards new oppositional parties in a district system seems to have been built on their knowledge of seat allocation in a pure district system. Besides that they feared what Reynolds and Reilly says that would happen if they, who had been living in Jakarta, would have to compete with other candidates at the local arena from which only one person is to be elected (Reynolds and Reilly 1997: 28f).

If we turn back to the main feature of Duverger's law, we can observe that many will argue that the majority system should mainly become used in ethnic and religious homogenous societies. Stein Rokkan, among others, has argued that the district system, because of its presumable tendency of producing two-party systems, will not fit societies with more than one structural political cleavage (Rokkan 1987). Ethnic and religious heterogeneous societies will often have at least two main political cleavages, one ethnic or religious in addition to one economic cleavage, and they therefore need more than two parties in order to let the different political attitudes be represented¹¹. Indonesia is extremely heterogeneous when it comes to ethnicity and religion, and should therefore in order to let the minorities become represented probably benefit from having a system of proportional representation. When Team of Seven focus on a pure district system, it is therefore a sign that they were not occupied with letting all minorities becoming represented, and that it for them seem to have been more vital to exclude the minorities. And as neither Habibie nor the majority deciding in parliament did argue for a pure proportional system, as it had been under Suharto, it is clear to see that they feared a system where too many minorities were represented in parliament.

5.3.2 The proportional representation.

"The basic aim of proportional representation is to represent both majorities and minorities and, instead of overrepresenting or underrepresenting any parties, to translate votes into seats proportionally" (Lijphart 1984: 150).

Proportional representation (PR) is mainly a system where the total number of votes is translated into seats based on a formula which ideally let every seat in the parliament represent the same number of votes. There is however few countries where one divide the number of votes on seats in parliament. The Netherlands is one

¹¹ One example that illustrates this is the autonomous archipelago called Faeroe Islands, officially a part of Denmark, where there are two major political cleavages (economic right versus economic left, and pro-union versus pro-independence) which thus result in four political parties: socialist unionist party, socialist independence party, conservative unionist party and conservative independence party

example of a regime where one strives for this though, and where the votes are divided in one single nation-wide constituency that totally gains the 150 seats in the parliament. Nevertheless, "all electoral systems achieve considerably less proportionality than what is mathematically possible" (Lijphart 1984: 161). A PR-system will under normal conditions give better possibilities for representatives from the minorities to become represented in parliament, than what is the situation with district system.

There are several ways in which the PR-system is made more disproportional than a mathematical calculation would count for. Many of the countries with PR have included a formula in which the votes are divided into. This formulas may vary a lot, but the main aim for them is to give a slightly support for the biggest parties at the expense of the smaller ones.

Nevertheless a PR-system was not proposed in Indonesia. I will therefore argue that the propelling forces behind the election laws thought that they would not benefit from PR-system when it comes to seat allocation.

One aspect of PR-system, electoral thresholds, is sometimes used to a make it more difficult for smaller parties to be represented in the parliaments. In regimes that have supplementary seats and nation-wide districts, it has become easy for even very small parties to be represented, and electoral thresholds are therefore sometimes introduced to make it more difficult for smaller parties to get representation. The reason for this is often said to be that one wish not to have to many parties within the parliament, because this will make it more difficult to form strong governments and oppositional coalitions. For instance in Germany, where the threshold is 5 %, the system origins from the desire to limit the election of extremist groups (Reynolds and Reilly 1997: 88). In Indonesia there was proposed a different kind of Electoral threshold: Only parties that was represented in parliament in the 1999 election could be allowed to contest the next general election. This was said to have been proposed in order of not having to many parties in parliament and making the people confused, but in reality it

is also a way where the dominant NGO's and political parties could secure their future.

5.4 Who is eligible to contest the elections?

When we have agreed on the criteria for becoming an elector and how the votes are going to be translated into seats in the parliament, we still do not know whom we are going to elect. Should everyone be able to join a political party and be one of their candidates competing for getting a seat in the parliament? And furthermore, should every political group be allowed to found a political party and contest the elections?

These questions are often important issues in the transition phase between an authoritarian and a democratic regime, and it is also quite often an important issue in the fight for political rights within democracies. The ruling elite's have in some cases a tendency to discriminate the opposition by not letting them be able to contest the election, or to control it by allowing only some parts of the opposition to contest the election. In Suharto's New Order Regime only three parties were allowed to contest the election, and the rules on how to translate votes into parliamentary seats secured Suharto's own Golkar Party the majority within the parliament.

There is no single theory that explains the different consequences of the existing rules or which system that is preferable when it comes to the question of making rules for what factors that are or should be required in order to organise a political party and letting it contest the election. Nevertheless there is a tendency to argue that it would be preferable for the stability of a regime if opposition groups are allowed to form political parties and contest the election (Linz and Stepan 1996). At the same time civil right groups argue that also parties not represented in the parliament should be able to contest the next election even if they failed to be represented in the current one. Nevertheless, in Indonesia one special party was excluded from participation, also in the new proposed laws. Due to historical reason from the 1960's, Team of

Seven would not propose that a Communist Party could contest the election, hence the communists were excluded.

5.5 What is the power of the elected

The last question the election laws should bring an answer to is the above raised question about what the power of the elected is, and how their power relates to the power of other institution and the electorate. This question will necessarily become answered in a different way if we are talking about a parliamentary election than if we were talking about a presidential election, since a president has a different power than an MP. Furthermore, this topic raises some fundamental constitutional questions covering the heritage from Montesquieu regarding the separation of powers, the connection between them, and the different roles of the judicial, executive and legislative institutions¹².

Montesquieu argued that a distinguished separation between the three institutions is necessary to create liberty (Montesquieu 1748, here from Held 1987). Montesquieu's analysis, however, was not fully coherent, as a definition of the exact powers of the legislature and executive, and the interdependency between them were left quite ambiguous. He did not even think that the legislators should be made accountable to the electorate (Held 1987). In many ways Montesquieu's thoughts only paved the way for what has become a common notion in more modern theories on democracy and in the practical experiences of most democracies. That is that the representatives in the parliament are accountable to the electorate, and that the electorate at least in each general election has the possibility of sanctioning its representatives. Furthermore, most democracies tend to have a clear notion on how the interdependency between the different institutions is, although this not has to be written in the constitution, if and when a constitution does exist. As an example we know that in the parliamentary

¹² I will not elaborate on the role of the judiciary since this, in most cases, is not an elected body, and therefore not covered by the election laws

system in Norway the executive institution has been accountable to the legislative institution since 1884. Nevertheless, this was not written in the constitution before 2007, over a century after it had become a constitutional practice.

Much of this debate was left out from the Indonesian debate. The new election laws did not give any rule on for instance on how the MPR should elect the president. And furthermore, by proposing that the military should still have given seats in parliament, Team of Seven contributed to a situation where one of the main forces in society was secured a place among the legislators, giving laws and money to themselves.

5.5.1 Unitary versus federal state

One distinction that is relevant to the question of what the power of the elected is, and to the case of Indonesia, is the distinction between a unitary and a federal state. There is a tendency of recommending that states with a vast heterogeneous society will have an increased chance of getting a consolidated democracy with an internal stability. On the other hand, homogenous states could be better of striving for a unitary state, instead of having an expensive and immense organisation of the state. However, this was never, due to historical reasons, discussed in Indonesia, as this had been tried and failed in the 1950's. This is discussed further among other places in Tønnesson and Antlöv (2001).

6 SHIFTING ALLIANCES IN A PHASE OF TRANSITION

In May 1998 the position of Suharto in Indonesia changed radically. After having been the strong man in the alliance with the military for 32 years, he overnight became a weaker man. General Wiranto, the head of the military forces (ABRI), gave Suharto the advice that he should withdraw after weeks of demonstrations against the president. Suharto followed Wiranto's advice, and at that time it was made clear to everyone that Suharto was not the strong man of Indonesia anymore. This does not mean that we can conclude that neither the new president Habibie nor General Wiranto became a new strong-man, it is not certain that anyone became new strong-man at all. The opposition in the streets was after all stronger than any other time during Suharto's presidency. At the same time as Suharto withdraw, the process of establishing a new framework for a multi-party democracy started through the reform of the election laws. And a key question to this transition is: Who made alliances with whom in this process?

In order of being able to answer that question, I will in this chapter discuss the standings of some of the theoretical sources on transition in general, and alliance-building-processes in a transitional phase in special, that can contribute to an illumination of the propelling forces behind the Indonesian election laws.

Unfortunately, most theories on transition seem to be occupied with questions related to the structural part regarding what kind of pre-democratic regime that gives the best possibility of leading into a consolidated democracy. Hence, the theories will not pay to much attention to the different individual actors in the political game who are playing within the transition-phase itself. The debate over new election laws that we have in this thesis will therefore be discussed more on structural basis, and not so much on the thinking of each individuals. We will here start out by exploring and discussing the theories that are most relevant to our project, and which will guide us towards an arena where we will find adequate information for the purpose of investigating the propelling forces behind the Indonesian election laws.

6.1 Some definitions

6.1.1 What is a transition?

Before we enter into a discussion over the different theoretical contributions, we have to make some small comments on transitions in general. The basic assumption of "transition» is that it is a transformation from one type of a regime to another type of a regime (Linz and Stepan 1996). Hence, a shift from a democratic regime towards a totalitarian regime will also be named as a transition. It is therefore no necessity that a transition will lead to a democracy, in fact Linz and Stepan argued that most transitions «from a once-stable non-democratic regime do not end in «completed democratic transitions»» (Linz and Stepan 1996: xiii). Therefore, almost needless to say, the word «transition» does not tell us anything about a direction; the only thing it says is that there has been a structural change in the governing regime. It is structural because it involves a structural change in the inter-relation between the legislature, the executive and the judiciary, or between the state power and the civil society. A structural change therefore involves more than a normal succession from one president to another one. This implies that it is possible to have a transition where a nation will have the same ruling party, president or prime minister before, through and after the transition.

We are in this thesis focusing on the special way of transition that is called a democratic transition, because we recognise the implementation of the election laws and the following Indonesian election in 1999 as being a step in a democratic reform. There are several definitions of the term «democratic transition». Linz and Stepan (1996: 3) have a rather extensive definition reflecting that a democratic transition is completed when the new "government de facto has the authority to generate new policies". They hope that they with that definition can help guard against the "electoralist fallacy" which define free elections as not necessary, but sufficient for democracy. As long as this thesis is focusing on the drafting of the election laws, we will here jump into this "electoralist fallacy" by defining the establishment of "free

and fair elections" as sufficient for a democratic transition. We will therefore have to leave all discussions about the possibilities of creating a consolidated democracy for now and instead focus on the transition from an authoritarian regime to a democracy with free and fair elections. This does not mean that discussions about necessary and sufficient criteria for a successful consolidation of a democracy are of no interest in this thesis, but due to the focus on the drafting of the election laws it will be necessary first and foremost to elaborate on the first step, which was to hold free and fair multiparty elections in Indonesia.

6.1.2 What regime type can Suharto's Indonesia be defined as?

Before starting to analyse how the different theoretical approaches can illuminate the Indonesian transition, we have to make sure that Suharto's New Order regime can be classified as an authoritarian regime. There are many definition of "authoritarian state power". Michael Mann defines it as a combination of high infrastructural- and high despotic power, a characterisation that may fit well into the Indonesian situation during the time of the New Order (Mann 1993: 60). Juan Linz and Alfred Stepan have divided the non-democratic regimes into four different regime types: sultanistic, totalitarian, post-totalitarian and authoritarian¹³. Without falling into a too big discussion of the different features that characterise all of the different regimes, we will hereby briefly present their definition of an authoritarian regime, and state why Indonesia fit into an authoritarian regime type. Linz and Stepan argue that there are "four distinctive dimensions of an authoritarian regime—limited pluralism, mentality, somewhat constrained leadership, and weak mobilization" (Linz and Stepan 1996: 39). The distinct difference from the two types of totalitarian regimes and a sultanistic regime lies in the fact that totalitarian regimes do not have any economic or political

¹³ Linz and Stepan define four different types of non-democratic regimes in their book «Problems of Democratic Transition and Consolidation» (1996): Authoritarian, Totalitarian, Post-totalitarian and Sultanistic. These four regime types are mostly related to the question on the possibility of consolidating the democracy, and are to a very little extend related to the question on who controls and initiates the transition itself. We will therefore not elaborate more on the other regime types in this thesis, but focusing on the authoritarian regime only.

pluralism, and that sultanistic regimes are highly personalistic and without a rule by law (Ibid: 38-65). One could have argued that it is impossible to define Indonesia as an authoritarian regime according to Linz and Stepan's definition. What seems most problematic with their definition is that they claim that an authoritarian regime does not have any guiding ideology. Indonesian leaders have with the Pancasila-ideology and later at least with the concept of the "New Order Democracy" developed an ideology that in many senses was totalitarian. However, the existence of a pluralism both within the economy and also, though often limited, within the organisations in the civil society are arguments for defining Indonesia as an authoritarian regime during the time of President Suharto, as long as limited pluralism is a key feature of authoritarian regimes according to Linz and Stepan. The existence of a strong military beside the strong personalistic rule of Suharto makes it difficult to argue that Indonesia was a sultanistic regime. Hence we will argue that Indonesia was an authoritarian regime through the Suharto-period. Although Suharto called the political system for a "New Order Democracy" it can never be argued that Indonesia was a democracy during his presidency, since only three political parties were allowed to participate in elections where his own Golkar-party through the election laws was more or less guaranteed to get the majority of seats in the parliament, or at least Suharto himself controlled the election of the majority of representatives to MPR who were electing him as a president.

6.2 Necessary and ideal pre-conditions for a transition

Linz and Stepan find that one of the must's for a transition to democracy is the existence of a sovereign state (Linz and Stepan 1996: 17f). According to Charles Tilly a "state" is "an organization which controls the population occupying a definite territory ... in so far as it is differentiated from other organizations operating in the same territory; it is autonomous; its divisions are formally coordinated with one another" (Tilly 1975: 70). One implication based on Tilly's reflection of the state, is that it is impossible to have a democratic transition in a colonial state. Indonesia is

not a colony anymore, but whether the Indonesian state is controlling all of the population within its border is a doubtful question. It is nevertheless clearly differentiated from other organisations operating in the same territory. There are and have been several separatist groups that claim independence for their own area, such as East Timor, Aceh and Irian Jaya, but this should not lead us not to recognise Indonesia as a sovereign state, hence this criteria for a transition to democracy seem to be fulfilled. International pressure did however lead to the referendum that gave East-Timor its independence in 1999. The fear of utterly balkanisation seems to have been among the key issues for Team of Seven.

As Linz and Stepan are very structure-oriented when they set out to investigate the possibilities of creating a consolidated democracy, they are not too occupied with the drafting-phase of the electoral laws since the drafting process are a more actor-oriented phase. Their structure-oriented approach is nevertheless worthful in describing how difficult it is for a multi-ethnic and multi-religious state as Indonesia to become a democracy. When discussing the efforts that needs to be taken for creating a democracy they say that "would-be democracy crafters in charge of the state apparatus must take into careful consideration the particular mix of nations, cultures, and awakened political identities present in the territory" (Ibid: 35). Nevertheless, it is doubtful that the crafters of the Indonesian election laws have taken this into consideration, when we know how difficult they made the possibilities for separatists from for instance Aceh to form their own political parties. However, we can also argue that they took this into consideration, as leaving that problem outside by claiming that all parties should acknowledge Pancasila, is a way of securing a common understanding of the state within the mixed society.

6.3 Transition from above or below?

The theories normally make a differentiation between transition intended or controlled from above and transition intended or controlled from below. There are a lot of literature on transitions, and most of them also seem to be occupied with the

possibilities each type of transitions have of leading to a consolidated democracy. This is not a necessary criterion for this thesis since we are interested in the alliances in the early stage of the transition.

The differentiation between transition from above or below is only suitable for transitions that have their roots in the domestic sphere. Hence, transitions based on wars or foreign direct pressures are not included in these theories. Those are not relevant for the Indonesian case either, even though there was a kind of an international pressure for reform from IMF among others. This pressure was not directly channelled, as it to the extent that it existed, must have been channelled indirect through opposition groups and/or the sitting regime. We have to ask which group in the Indonesian society that intended the transition. Therefore we will leave the questions regarding the international pressure for a while, before we will elaborate more on them in the analyses that will come in the last chapters of this thesis.

Terry Lynn Karl and Philippe C. Schmitter have made a valuable contribution to the transition theories. In an article from 1991 they structuralized the transitions after two variables. The first variable is "actors". Who produce the transition, the masses or the elites? The second variable is the "strategy" the actors use. Is the transition forced through, or do the actors make compromise with other actors? The different combination of variables leads to four modes of transitions (see figure 6.1 below). The problem with the variables is that they are all ideal types of transition, in the weberian sense of the word; hence all transitions in history are not covered by any of the four boxes in figure 6.1. Nevertheless it is very usefull in the Indonesian case. They describe revolution as when the masses by force defeat the previous leaders. Reform is when the masses develop a pressure on the regime which results in a compromise about entering into a transition without having to use violence. Imposition is when the elites use force in order of bringing a change to the regime. Finally, pact is when the elites make a compromise among themselves to have a transition (Karl and Schmitter 1991: 275f). Although the point of departure for Karl

and Schmitter is transitions in Latin America, Southern- and Eastern Europe, they give in their article a valuable contribution to the debate on transitions that also is interesting to have in mind in the case of the Indonesian transition. Karl and Schmitter state that many cases are difficult to classify as one of the four modes of transition (Ibid.:277).

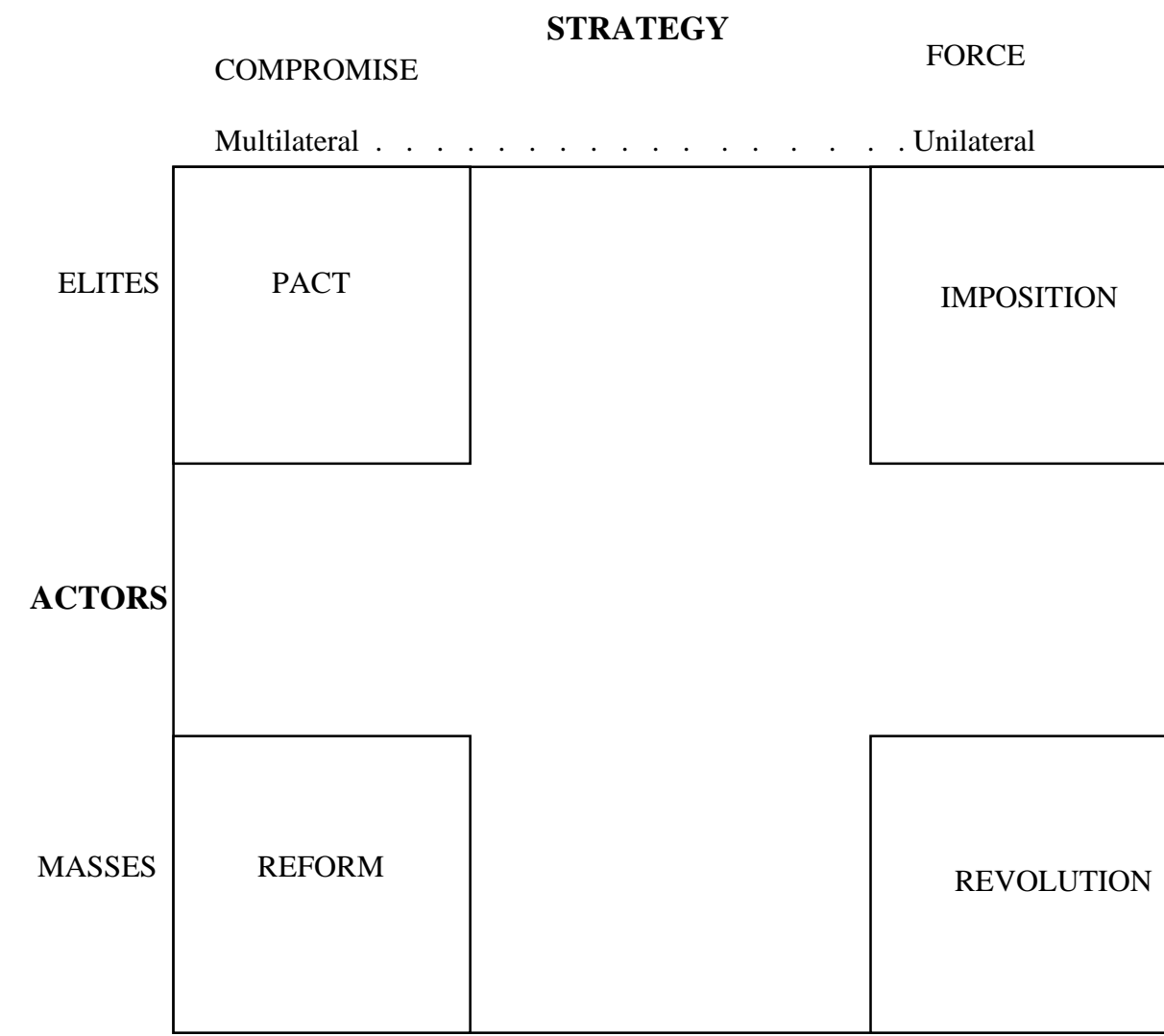


Figure 6.1 Modes of transitions

Source: Karl and Schmitter 1991: 275

When we take a closer look we will see that this is also the case with the Indonesian transition. What started as protests in the streets against the Chinese merchants and the government because of higher prices on rice, fuel and other commodities, ended up with transition where also members of Golkar took an active part in bringing their own president to withdraw. If we put the Indonesian events into the ideal types of Karl and Schmitter, we will see that it started as a reform where the masses demonstrated. Some passages were nearly revolutionary, for example when the students surrounded and almost occupied the parliament in mid-May 1998. After Suharto stepped down the initiatives were no longer with the masses, hence the elites had got the initiative. Whether the drafting process of the election laws is characterised by compromise between elites or by unilateral force is left to discuss, but I will argue that the rest of the Indonesian transition is characterised as a "pact". Linz and Stepan do also describe a pact-variable which they call "reforma-pactada, ruptura-pactada" (1996: 57ff). Our short discussion, on which box we have to put the Indonesian transition into, shows us at least one major difficulty with Karl and Schmitter's approach, that of shifting initiatives throughout the transition. On the other hand, by focusing on the forces that initiate the transition, it is clear for the Indonesian case that the government took over control from the masses when they formed the Team of Seven even before Suharto had stepped down. The government wanted to be in the forefront of the situation, and they planned for a transition while the people were still demonstrating in the streets.

Many theories, as we will see, tend to be too static when defining different kinds of transitions. One can of course assume that this is a way of pointing out a major tendency by using a sort of Weberian ideal types, because one wants to build a new theoretical framework for future discussions. The major obstacle with such an argument is that the reality seldom is totally suitable to the theory, and this is also a problem with the article by Karl and Schmitter. Another problem is this rather philosophical, but anyhow important argument, that revolutions have a tendency of

eating their own children¹⁴. We will not at this moment enter into a deep discussion on who the children of the Indonesian transition are, or on which persons or groups who the hungry one was eating them. The only thing we have to state here is that there also in the Indonesian transition were different people or groups of people who were initiating the changes at different times, and that it is peculiar to find that the students who were in the forefront in the beginning of the transition were more or less left outside the decision-making arena when the elites settled down to make the election laws.

6.4 Transition from above and below?

The discussion on Karl and Schmitter's approach leaves us with one major question: Is there any literature that absorbs the contradictory facts of a transition that is initiated both from above and below? Atul Kohli brought up this dilemma in an article printed in *Third World Quarterly* (1993). One of the most significant observations related to the question regarding the Indonesian election laws comes when Kohli analyses empirical examples of transitions. Kohli then says that transitions can be viewed "as a result of some combination of two underlying processes: intra-elite factionalism creating weakness at the 'top' of the old regime: and growing pressures from below — from a civil society — to open the authoritarian regime" (Ibid: 673). Furthermore he argues, "intra-elite divisions appear in many cases ... to have been exacerbated by economic crises" (Ibid: 673). Kohli states that these crisis has "narrowed the room for authoritarian states to manoeuvre, undermined whatever limited performance-based legitimacy the old regimes may have possessed, and intensified disagreements among ruling élites over future paths" and that "irrespective of its origins, a divided élite both encouraged mobilisation from below and made it difficult to sustain a highly authoritarian situation" (Ibid: 673).

¹⁴ This argument is well known by historian, and is often referred to when discussing the events in the French Revolution in 1789.

The fact that the Indonesian crisis started out with an economic crisis leading the people to riot against high prices on commodities as rice and fuel, is therefore suitable to Kohli's thinking. And we know that Suharto was asked by General Wiranto to withdraw, hence there had been "disagreements among the ruling elites over future paths (Kohli 1993: 673). What we therefore have to look for is whether this also narrowed Habibies room to manoeuvre, and which alliances he therefore had to build to stay in power.

This is a somewhat different starting point for a democratic transition than what the so-called "modernisation school" presented in the 50's and 60's. One of the modernisation-theorists, Seymour Lipset, argued as an example in his "Political Man" (1960) that greater economic affluence is generally related to prospects for a stable democracy. Between these two viewpoints we can find for instance Barrington Moore (1966) who argued that economic modernisation may lead to both democracy and dictatorship. Although Kohli mentioned that an economic crisis may lead to the breakdown of the authoritarian power and that this furthermore can lead to a transition towards democracy, but he did not argue that such a crisis either have to lead to democracy, or that this is a necessary pre-condition. However, in Indonesia the economic crisis led to democracy, a result that 32 years of improved economic conditions under Suharto had not given.

What is important with Kohli's contribution is that he recognises the simultaneous correlation between the elite factionalism and the anti-authoritarian forces as crucial for creating enough political space for a successful democratic transition. He says that the political motivation for the different civil society-groups varied, and that "their political capacity to sustain themselves beyond 'transitions' also turned out to be weak" (Ibid: 673). The only common feature of those civil society-groups is in most cases that they have been anti-authoritarian. Kohli also mentions that international influences of varying types may have been an important factor for giving strength to the civil society activism, directly or indirectly.

Kohli is not only occupied with the preconditions for transition, he also goes further ahead in his article talking about legitimacy for new democratic institutions. He says that parties and parliaments often "are fragile in most countries that have recently transitioned from authoritarianism" (Ibid: 675). Even more "a typical outcome follows: irrespective of the levels of civil society activism during the anti-authoritarian phase, power in many a new democracy comes to rest in the hands of a few individuals, if not a single leader" (Ibid: 675). This is almost the same thoughts as the famous argument of Robert Michels that "the fundamental sociological law of political parties ... is (a) organization which gives birth to the dominion of the elected over the electors, of the mandataries over mandators, of the delegates over the delegators. Who says organization, says oligarchy" (Michels 1915: 401). What about the power of the masses in the transition phase? Kohli adds that "once they (i.e. mobilised but unorganised groups) have served their political purposes" they "add considerable volatility to the polity" (Ibid.: 675).

We know that a variety of civil society groups including student-movements, democratisation-movements and other NGOs as for instance the religious based organisation Muhammadiyah united in a common effort of breaking the old regime. If Kohli's contribution makes sense, we may have to look for possible intra-elite factionalism in Indonesia as a pre-condition for the transition. Therefore it makes sense to use the analysis of Atul Kohli as a starting point to search for a possible intra-elite factionalism also in the drafting process of the election laws. If we find such factionalism, we will also have to search for a possible alliance between groups or individuals within the elite and anti-authoritarian forces within the civil society-groups at the grassroots level.

6.5 Actors and context

According to Juan Linz and Alfred Stepan there are two actor-centered variables that are concerning the leadership basis of the prior non-democratic regime and the question of whom are initiating and controlling a transition (Linz and Stepan 1996:

66 ff). Actor-centered variables are of special interest in this thesis where we are focusing on the legislators behind the election laws. Hence, we are interested in theories that explain possible correlations between a set of actors and a set of possible outcomes in a period of transition.

The first of their actor-centered variables is concerning the institutional composition and leadership of the preceding non-democratic regime. Their main question is regarding what the institutional character of the state elite is. The state elite is here referred to as «the core group that is in day-by-day control of the state apparatus» (Linz and Stepan 1996: 66). This is a distinct variable from that of regime types, and Linz and Stepan define four different types of state elites: -a hierarchical military, -a non-hierarchical military, -a civilian elite, -the distinctive category of sultanistic elites.

Due to the existence of a strong military presence in the Indonesian state apparatus the two variables concerning a hierarchical and a non-hierarchical military will have to be analysed briefly here. Linz and Stepan argue, «only an authoritarian regime has the possibility of being controlled by a hierarchical military organization» (Ibid: 66). This implies that their three other regime types, totalitarian, post-totalitarian and sultanistic regimes cannot be controlled by such a military organisation, and as we argued in chapter 5.1.2 above, Indonesia did during Suharto's presidency for many reasons fit into the main characteristics of an authoritarian regime. Regimes with a strong military presence have normally been viewed upon as unfavourable to democratisation. It is therefore surprisingly when Linz and Stepan state that "all hierarchical military regimes share one characteristic that is potentially favourable to democratic transition", which is that "the officer corps, taken as a whole, see itself as a permanent part of the state apparatus, with enduring interests and permanent functions that transcend the interests of the government of the day" (Linz and Stepan 1996: 66-67). The implication of this is that there is a "possibility that the hierarchical leaders of the military-as-institution will come to the decision that the costs of direct involvement in nondemocratic rule are greater than the costs of extrication" (Ibid:

67). This is an argument that is very interesting to in the Indonesian case where Suharto first withdrew after having received the advice to step down from the head of ABRI, General Wiranto. This incident is itself an important argument for claiming that Indonesia had a hierarchical military. Linz and Stepan continue by saying that "paradoxically but predictably, democratic elections are thus often part of the extrication strategy of military institutions that feel threatened by their prominent role in nondemocratic regimes" (Ibid: 67).

Linz and Stepan are for many reasons less optimistic about the possibility hierarchical military regimes have of becoming consolidated democracies. One of the reasons is that since the military is a permanent part of the state apparatus they will always have a privileged access to coercive resources, hence "members of the military will be an integral part of the machinery that the new democratic government has to manage" (Ibid: 67). There are therefore also reasons for arguing that a drafting process of new election laws as a part of the transition can be influenced by the military in countries where there is an authoritarian regime with a hierarchical military. And in Indonesia we have seen how Team of Seven proposed to give the military seats in parliament.

The question in our case is therefore whether the military initiated and controlled the transition, and this leads us to Linz and Stepan's second actor-centered variable, that of who initiates and control the transition (Linz and Stepan 1996: 71-72). The Habibie-government may be viewed upon as being an interim regime between the authoritarian regime of Suharto and the democratic election in June 1999. The legitimacy of the Habibie-government was low, and Habibie also made it clear when he took power that there were one main objective for his presidency – that of establishing a new set of election laws in order to have a general election as soon as possible or at least within a year after he came to power. Linz and Stepan argue about interim governments in cases where armed forces have brought them into power that they "frequently.... develop a dynamic that moves them away from fully free contestation" (Ibid: 71). If we follow their argument here, we could develop an opposite argument in the Indonesian case that says that if the election laws do not

lead to a fully free contestation, then the military might have had too much power in the Indonesian democratic transition! We might on the other hand also consider that the Habibie-government was not an interim government. Habibie was after all the vice-president of Suharto, and he was therefore Suharto's legally successor as president of Indonesia. If that is the case, the transition towards democracy must be regarded as a state- or regime-initiated and –controlled transition, as we have also discussed previous regarding the theories of Karl and Schmitter.

7 OBSTACLES AND ALLIANCES IN THE DRAFTING PROCESS

7.1 Limited time-frame for the debate

There is one aspect one should remember, where there are huge differences between the most well established democracies in the west and the newest one that has been established during the last two decades. The oldest democracies have been established through generations and not in a few years, as is the situation for the transitions in the newborn democracies like the one in Indonesia. The election laws have also been formed during a long time in the oldest democracies, and most important is that the electorate itself has through elections had the opportunity to take part in the formation and a continuous evaluation of the laws. In many ways it can be said that the electorate therefore has been able to form election laws that suit themselves.

Moreover the election laws have in many countries been changed so that a higher percentage of the population can participate within the formal democratic structures due to some group's outstanding demonstration for democratic power. This was the situation when labour groups demanded the right to vote for themselves, when women got the right to vote. Stein Rokkan (1987) shows in his work how this process influenced the composition of parties within the different parliaments in the democracies in Western Europe. This change over time of the election laws represent a significant contrast to the field and period of research for this thesis where the electorate had no chance to respond to the election laws through elections.

When it comes to Indonesia, the official drafting process lasted only in eight months, from the end of May 1998 to the end of January 1999. On the other hand, LIPIs

contribution and the fact that Ryaas Rasyid was asked to form a group¹⁵ before Suharto withdrew give us indications that the process was started before and that it therefore took at least a little more than eight months.

In order of making good election laws and have enough time to discuss them before voting in parliament and to implement them before the election, we clearly can see that it took a short time from May 21st 1998 until June 7th 1999. One of the best explanations of this argument is all the obstacles that were left out of the drafting process that the General Election Committee (KPU) had to clarify before MPR met in autumn 1999 to choose the next President of Indonesia, who was to become Abdurrahman Wahid. Some of those obstacles were, who is going to be functional group representatives in MPR, who is going to represent the different parties in parliament (DPR), and how is the seat allocation for parliament in total going to be. KPU had to discuss intensively on those issues as the election laws were totally unclear on some of those points.

On the other hand the limited time-frame for the drafting process is also mentioned by Mallarangeng and other persons as a reason for why they were not discussing several aspects of a transition, as for instance to establish a federal system (Mallarangeng 1999).

But did everyone think that it was a short time-frame? When Suharto withdrew, the students continued demanding democracy. Habibie was a new president, but still he was part of the old regime, elected as a vice-president under Suharto. The students were generally unhappy with the transfer of power to Habibie (Eklöf 1999). It was therefore a chance that Habibie had listened to the demonstrating masses and stepped down immediately in May 1998, but he did not. Instead on May 23rd, two days after Suharto stepped down, Habibie invited some of the people who had been the most visible reformists demanding democracy and demanding Suharto to withdraw, to his

¹⁵ Team of Seven

home. Among them were Amien Rais (leader of Muhammadiyah, the second largest Indonesian Islamic organisation who had been one of Suharto's strongest and most visible opponents for the previous month), Nurcholish Madjid (a muslim scholar), Adnan Buyung Nasution (reformist human rights lawyer), and Rudini (former Minister of Internal Affairs who had already asked Rasyid to form Team of Seven) (Hosen 2003 b). For Habibie it was of vital importance that these people accepted his plan of holding an election as soon as possible, as this would secure him some months to prepare for the election, and save him from the immediate withdrawal. And they made a pact with him and accepted a plan. So, for Habibie the drafting process gave him the chance to overcome the urgent political and economical crisis of Indonesia.

Habibie here stated an example that he knew that his room to manoeuvre was narrowed, so that he had to make an alliance with the opposition. At the same time this is also verification of Kohli's argument that the political motivation for the different civil society-groups varied, and that "their political capacity to sustain themselves beyond 'transitions' also turned out to be weak" (Kohli 1993: 673). The only common feature of those civil society-groups is in most cases that they have been anti-authoritarian. In the Indonesian transition, the move of Habibie both secured his agenda of holding an election and staying in power for at least one more year, and it wiped out the students and other more radical parts of the opposition so that opposition was splitted in two parts. This was of vital importance to Habibie, but it was also of vital importance to the moderate middle-class opposition who was invited to take part in the political work of the democratic transition. I will argue that this certainly also influenced how the new election laws were made.

Although it might have seemed as if the elite among the demonstrating masses represented by Amien Rais and other made a pact with Habibie when he came to power in May 1998, we shall remember that a major coup of the drafting process already was made by Suharto when he decided to ask Ryaas Rasyid to form a drafting committee a few days before Suharto stepped down. Nevertheless, Habibie

seems to have taken control from the very beginning of his presidency, and then making a pact with some of the opposition, as Karl and Schmitter would have called it according to their figure (1991: 275). So after having started as a reform or almost a revolution, I will argue that the transition now turned towards a pact. We will below see how this pact influenced the possibility of new parties to evolve, as we will see how the law number 2 (1999) on political parties was favourable to the opposition making the pact.

7.2 Limited time-frame for new parties

Although the drafting process would secure Habibie at least one year as a president of Indonesia, the timetable he set up was very short. Within one year parliament had to decide on new election laws, and even more, a three-party system was going to become a multiparty democracy. Within this time, after new laws were adopted by parliament on January 29th 1999 and until the March 1999, new political parties had to be established and registered. One of the obstacles for new parties was that in order to be allowed to contest any of the elections a party had to have established party organisations in at least 9 out of Indonesia's 27 provinces, and in at least half of the regencies or municipalities within those nine provinces (Indonesian Law number 2/1999). I will discuss later on how this influenced the possibility of establishing regional based parties. First we have to ask: who would benefit from this rule? There is one obvious answer to that question: The nationwide organisations that already existed and who were allowed under Suharto's New Order. Loose organisations, student groups who had been demonstrating against Suharto and groups with limited economically resources would have no chance to become established within the framework set up by the new election laws.

I will therefore argue that this is also a sign of the pact between the ruling government and the big organisations in society, as this rule would make it so difficult for smaller organisations and regional based organisations to be established. Furthermore, this is also a proof that the students were only instrumental in

demonstrating for Suharto's withdrawal, and that they did not have any power at all when it came to the rest of the transition period.

Besides the big NGOs, there was one other group that could meet the criteria set above, and that was ABRI-representatives. As the military through their *dwifungsi*-role were situated on various places throughout the archipelago, some of their generals (retired or not) had both the economical and organisational capacity to form new political parties. Among the 48 parties that became certified for contesting the election, some of them had retired generals as their party-leader.

All other groups wanting to contest the election did not either have the institutional capacity, the economic funding or the sufficient time to establish themselves.

7.3 The introduction of Islam in the Pancasila-state

The big Non-governmental organisations that could favour from this was at least the two huge Indonesian muslim organisations, the Nahdlatul Ulama (NU) led by the Habibie's successor as president Abdurrahman Wahid, and Muhammadiyah which was led by Amien Rais who was central in demonstrating against Suharto and on the May 23rd meeting with Habibie (see above). Both of them had several million members and supporters. However, in order of being allowed to contest the elections one paragraph had to be changed, and as I mentioned in chapter 2.1 above it was. The paragraph from the 1984 law, requiring individual organisations to adopt Pancasila as their sole ideology, was eliminated. The new law allows political parties to have religion as their founding ideology, although they must support the unity of the republic of Indonesia, Pancasila as the state ideology, and the 1945 Constitution. By this change the pact was a fact, and the big Muslim organisations made their entrance into party politics of Indonesia after having been suppressed politically by Suharto. And the state and the largest civil society groups could meet on the same arena, and in the Indonesian case this was also possible without having to fear that the two big

Muslim organisations would demand sharia as they are moderate, at least on the national level (Hefner 2000).

7.4 Centrally or regional focus?

One of IDEAs advices is to “Err on the Side of Inclusion” so that the “electoral system should produce a parliament which errs on the side of including all significant interests. Regardless of whether minorities are based on ideological, ethnic, racial, linguistic, regional or religious identities, the exclusion of opinion from parliaments, particularly in the developing world, has often been catastrophically counter-productive” (Reynolds and Reilly 1997: 123). The fact that in order to be allowed to contest any of the elections a party had to have established party organisations in at least 9 out of Indonesia’s 27 provinces, and in at least half of the regencies or municipalities within those nine provinces, meant for instance that regional based local parties would have problems with contesting the elections. This is a sign that it was a centrally Jakarta-based drafting process where one was afraid to include the opinions from the different regions. In an extremely heterogenous society as the Indonesian one, where several regional conflicts become more visible to the public after Suharto withdrew, the decision was to stay with Pancasila, the unitary state and continue working for *Bhinneka Tunggal Ika* (Unity in diversity)¹⁶. Another part of the problem of inclusion is that the communists were not allowed to take part in the election as a party.

7.5 The determination of parties prior to the election

The party law did meet much of the demands from the opposition outside parliament. It did allow multi-party election, and it opened up for religious Muslim forces to take

¹⁶ The motto 'Bhinneka Tunggal Ika' (Unity in Diversity) is a slogan from the time of independence signifying the unity of the Indonesian people despite the diverse ethnic and cultural backgrounds.

part in the elections. It also helped the forces who wanted to fight for a continued united Indonesia, without taking the chances of leading Indonesia into a period of balcanisation, except for the independence of East-Timor. Finally it made it easier for the large and traditional moderate NGO's to take part in the elections, and it made it difficult for separatists in all the sence of the word to take part in the elections, as they would not have a broad enough base or enough time to form a political party.

In order of being able to determine which political parties which met the criteria in the Election law, the Minister of Home Affairs appointed a group of eleven people, called Team of Eleven. This was an interim advisory committee that was going to work until the General Election Committee, KPU, could be established by governmental appointed members and members from the political parties which Team of Eleven would determine. Team of Eleven concisted of members from civil society and professionals, among them were members of Team of Seven. Nurcholiish Madjid, a respected moderate Islamic scholar, was leading the Team. The other members of the Team were Miriam Budiarjo, Adnan Buyung Nasution, Adi Andojo Soetjipto, Afan Gaffar, Kastorius Sinaga, Andi Mallarangeng, Mulyana Kusumah, Eep Saefulloh Fatah, Anas Urbaningrum and Rama Pratama. Both Madjid and Nasution were among the little group who met with Habibie on May 23rd 1998 to give him advice on the transition process. Urbaningrum, Mallarangeng and Gaffar were all members of Team of Seven who had drafted the laws for the government. Urbaningrum was also the National Chairman of the Islamic Students Association, and was the only person from the student movement that was visible through the drafting process.

148 parties had signed up for the elections, and Team of Eleven worked to determine which of them that met the criteria having branches in nine out of the 27 provinces and in half of the districts in those provinces. Team of Eleven recommended that only 48 of the 148 parties met the criteria. The parties that failed had no place to appeal the decision. At that time there was a proposal that the parties that failed to win seats in parliament in the June 7th election would not be allowed to contest the next general

election in 2004. It was therefore crucial for the parties to be allowed to contest the first election.

According to my interview with Adnan Buyung Nasution (1999), Team of Eleven was never questioning if the parties supported Pancasila as the state ideology. Hence, the parties that were not allowed to contest the elections failed because they did not have enough branches. According to Nasution there were discussions within Team of Eleven on how many parties that should be allowed to contest the elections. As the law opened up for many new parties, but not for all the regional parties that could have been there if the laws had been different it supports Atul Kohli's description that one of the main problems when creating new democracies is that a transition often has the "seemingly ironic impact of simultaneously creating 'too much' and 'not enough' democracy" (Kohli 1993: 672).

The government seemed to have been worried that it would be too confusing for both the voters and also for the possibility of making politics within the new government if too many political parties were allowed to contest the election. With the composition of the members of Team of Eleven, the government had a possible to limit the numbers of political parties together with leaders of civil society and some professionals who had been supporting the transition to multiparty democracy from Habibie's first days as a president. This again support my argument that this is a pact between the government and some of the leading moderate nationwide NGO's who both would have the interest to limit the competition in the forthcoming election.

7.6 Proportional versus district representation

In trying to find out who were the propelling forces behind the election laws I will now go into some of the points that were discussed widely in the drafting process. I will use some of the advices for electoral system designers that The International IDEA have given in their handbook of Electoral System Design (Reynolds and Reilly

1997: 121 ff) as guidelines as this will help us to explore who was kept out of the process.

IDEAs first advice is to keep it simple and to make an electoral system that “can be easily understood by the voter and the politician” (Ibid. 1997: 122). The unique Indonesian hybrid between district and proportional system was not at all simple to understand, either for the voter, the politician or the General Election Committee (KPU). It thus could confuse them, and it might also have confused the one taking part in the drafting process.

One thing is that it was confusing for the voters, but it might also have been confusing for the one who made the proposals. Only one year after the drafting process was finished, Andi Mallarangeng from Team of Seven met with Mochtar Pabottingi from LIPI to discuss the difference between proportional and district system, and what kind of system that would fit Indonesia best. In that debate, as we have seen in chapter 5.3 above, Pabottingi took the opposite standing than what he had done with LIPI in their proposal where they proposed that Indonesia should move towards a district system, while Mallarangeng stood along with the district system that Team of Seven had initially proposed before they revised their proposal and proposed a mix. So if the persons proposing the system had problems standing with their proposal, what would then the situation be for the one deciding on the election system?

It is utterly interesting to find that both Team of Seven in their first proposal and LIPI suggested that Indonesia should move towards a district system. Both the members of Team of Seven and LIPI were mostly political scientists who were aware of the theories of democracies. I have in chapter five discussed some of these theories and referred to how Arend Lijphart describes this: “The basic aim of proportional representation is to represent both majorities and minorities and, instead of overrepresenting or underrepresenting any parties, to translate votes into seats proportionally” (Lijphart 1984: 150). I also discussed how Duverger argues that the district system (The simple-majority single-ballot system) “favours the two-party

system” (1959: 217), and how this is also viable for more modern theories and taken into the advices from International IDEA as a clear guidance to new democracies that a district or “first past the post”-system will lead towards a competition between two major parties (Reynolds and Reilly 1997: 28f).

With this understanding of the systems, one would think that the persons proposing new election laws in a period of democratic transition in one of the world’s most heterogenous societies would have proposed that proportional representation would have suited Indonesia. When they did not, there must be other reasons for this. In chapter six I have referred to how Golkar reacted to Team of Seven’s proposal because they feared that they had to contest outside Jakarta. Is this all the truth, or were there other obstacles in this debate? We must assume that both Team of Seven and LIPI knew that a district system would favour few parties and favour the parties that would gain most votes, and that it would make it more difficult for the minor parties to become represented. The only reason why there were only three parties in parliament within the proportional system in Suharto’s New Order Democracy is that only three parties were allowed. The focal point for this discussion is therefore why they did not propose a proportional system, only allowing more than three parties to contest the election. Did Golkar-members really fear what would happen if they, as Afan Gaffar pointed, under a district system would have to spend time fighting in the districts far away from Jakarta (Gaffar 1999)? Or was the problem for the ruling Golkar-party and the other parties in parliament that they feared that they would gain less votes and hence not be represented in parliament? In order of bringing an understanding to this, we have to look more into the debate in parliament.

Golkar had the majority of the seats in the parliament (DPR) and in the MPR based on the 1997-election. Hence they could decide on the laws as what would suit them most if they acted like one party with a united vote, but they did not seem to do so. After Suharto stepped down, there was a vacuum within Golkar, as the leader of the nation for the last 32 years stepped down. The position of a vice-president had never been a heavy position in the sence that the vice-president did not have a real power

and that there was no tradition that a position as a vice-president would give the person a chance to in the future become a new president of Indonesia. For 32 years, Indonesia had only one president, and in the same time several vice-presidents had appeared and disappeared from their positions. Therefore the position of Habibie was not too strong when he succeeded as president, and several people within army, Golkar and opposition was not in favour of him (Hosen 2003b: 139ff). Hence the situation seems to be what Atul Kohli describes as an intra-elite factionalism (Kohli 1993).

Team of Seven first presented their draft in a six hour long cabinet-meeting. There the factionalism was clear to the one present. In a passage Hoosen describes what happened:

“Habibie said to Rasyid, “That was an excellent presentation. I agree with it, and would like to pursue it”. However, State Secretary Akbar Tanjung (also the new General Chairman of Golkar) voiced ardent objections. According to him, the proposed system departed too radically from past precedent.” (Hosen 2003b: 148)

What would Habibie do in this situation? He could listen to his party, he could listen to Team of Seven, or he could minimize the pressure on him and his government by handing over the proposal to parliament and let them take the debate. Before he did the last thing he invited both Rasyid and Tanjung to his home to compromise on a draft he could send over to the parliament. In this manoeuvre the district system became a mixed proportional system. So on September 16th Habibie passed the law to the DPR, and it became their responsibility to finalize the law. After parliament had discussed the laws, they passed it to a special session of People’s Consultative Assembly (MPR) in November 1998.

Not only Akbar Tanjung and other central Golkar-members feared the district system. The uncertainty on how many votes the ruling Golkar-party could gain through the next election also made several oppositional groups outside parliament frustrated of

the proposed district system. The leader of Muhammadiyah, Amien Rais, feared that reforms would continue to favour Golkar. According to Richard Mann this was especially related to “any combination of district election system with proportional representation” (Mann 1999: 77). Amien Rais was quoted saying that such a combination “would favour Golkar because the organization still had plenty of money to buy the votes of people” and “Golkar is still the most favoured party because it’s got everything. It has money and political infrastructure” (Ibid.: 77). In October 1998 Golkar still expected to gain 50 percent of the votes in the coming election, down from 74 percent in the last election in 1997 (Ibid.: 85). Such a percentage would still have gained most seats in parliament, but as the students continued to demonstrate during the autumn, and especially during the special session of MPR, some of the major reform leaders such as Amien Rais urged the masses to stay quiet. Hence, the students were isolated from the major reform leaders in which they had demonstrated side by side against Suharto in May. At the same time members of Golkar must have doubted if they would gain as much as half of the votes in the forthcoming election. It was therefore time to rethink the proposed district system. Neither the Golkar nor the major outside-parliament opposition seemed to be in favour of a pure district system, but of different reasons. The major outside-parliament opposition because they still feared that Golkar would gain most votes; Golkar, because they feared that they would gain less votes. There were also critical voices within the opposition to the system of proportional representation. Islamic Student Association, chaired by Team of Seven and Team of Eleven-member Anas Urbaningrum, said in a statement that “By agreeing to use the proportional system, it may seem as if they (DPR-members) are accommodating the aspirations of the new political parties. But I believe that the reason is that they realize that their days in Parliament will be numbered if the district system is used.” and further that with PR-system they hope to still be in Parliament “without having to work hard by approaching their constituents” (Mann 1999: 120).

Mulyana Kusuma, Secretary General of KIPP (the Indonesian Independent Committee for General Election Monitoring) wrote in *The Jakarta Post* that “The PR-

system will be oriented toward the maintenance of the old political format which manipulated the working mechanism of a party system in order to reinforce the government which is a long way from public control, sustain the low accountability of the representatives and obstruct the improvement of the voter's sense of identification with their representatives...". He further wrote that "Because candidates under the PR-system will be more representative of their political parties rather than their constituents, aspirations of the regions for the introduction of the widest regional autonomy possible or for the establishment of a federal system of administration will be less accommodated and the people will obviously have a much weakened sense of being represented" (Mulyana Kusumah in Jakarta Post December 5th 1998).

Hence there were two major discussions regarding the PR versus district system. One was about the possible allocations of seats in parliament and the possibility of the minority to become represented, as Lijphart is discussing (1984). The other discussion was about accountability for the elected towards their constituents, and the possibility for village people and uneducated to understand and knowing who was representing them. The last dimension is not mentioned by Lijphart as important enough for heterogeneous societies. The Indonesian opposition opposing PR-system seemed to fear that proportional representation could lead to a transition where another version of top down democracy instead of a bottom up democracy in which they had hoped for. This was probably also the reason for Team of Seven initial proposal of a district system. It seems like none, except LIPI, feared that a district system in Indonesia would follow Duverger's Law, and lead towards a two-party-system. The opposition opposing the PR-system was not the strong opposition, and it was not the ones who represented the major moderate oppositional groups that formed the largest political parties.

A growing support for the new parties as for instance both Megawati Sukarnoputri and her party PDI-P, for Abdurrahman Wahid and his PKB led to more uncertainty on the result of the election to come. So instead of going for a pure system, the new

election system was a compromised hybrid between district elements in a proportional system. In the end, all major parties inside and outside parliament agreed to stay with the proportional system both because of its simplicity and familiarity. To go for a district system could also have postponed the election as it would have taken time to draw new district boundaries and prepare both voters and parties for a new system (Hosen 2003b). Another reason for staying with PR was that also the major opposition groups led by charismatic leaders, such as Amien Rais, Abdurrahman Wahid and Megawati Sukarnoputri, hoped to benefit from a national party list system, rather than fighting locally with their unknown candidates. So at last the Golkar-party in this case won over its president Habibie, who was in favour of Team of Seven's district system proposal. I will therefore state that the elite was divided between the government and the party, and the opposition was divided between the students and the traditional democracy-movement on one side and the major civil society organisations on the other side. With the major civil society groups¹⁷ I will define NU, Muhammadiyah, and I will also for the last chapters include PDI-P and some other major organisations. PDI-P was led by Megawati Sukarnoputri, the daughter of the father of the nation, Indonesia's first President, Sukarno.

The compromised hybrid on new election system was made on vague formulations. Therefore the General Election Committee had major discussions on how to allocate seats to parliament after the election. This was foreseen by the American National Democratic Institute (NDI) who as early as February 23rd 1999, only three weeks after the new laws were adopted, reported that "the new law appears to be the result of last-minute political compromises. These compromises resulted in an election system apparently without exact precedent or parallel anywhere else in the world" and "the law itself provides only general principles; details about exactly how the system will work remain to be specified" (NDI 1999). As the election committee consisted of 50 percent governmental appointed members and rest party-appointed members, the

¹⁷ When I in this thesis use terms as "the big NGO's" and the moderate middle-class opposition, I will refer to the same group.

government did have a heavy control also over the allocation of seats to the parliament.

7.7 Military representation

It was clear that most forces outside parliament, including the NGO-consortium opposed any representation in parliament from groups or people who was not elected. Hence, the ABRI-representation should be abolished. When the military (ABRI) got their representation in parliament this has to do with their power. It was general Wiranto who asked Suharto to step down, and there were rumours and fears about a coup d'état during Habibies presidency. I have in chapter 6 discussed how Linz and Stepan is looking on the status of the military. They say that "all hierarchical military regimes share one characteristic that is potentially favourable to democratic transition", which is that "the officer corps, taken as a whole, see itself as a permanent part of the state apparatus, with enduring interests and permanent functions that transcend the interests of the government of the day" (Linz and Stepan 1996: 66-67). And in Indonesia they were given seats in the parliament, even in a so called democratic transition. Mallarangeng said in my interview with him that "there is no way to send this proposal to parliament without compromising and letting them have seats" (Mallarangeng 1999). Nobody knows what would have happened if they had not got any seats, but, as the status of the military was strong, by giving them seats, they got recognition and the transition to democracy could move on.

8 WHAT WERE THE PROPELLING FORCES?

The new democracy in Indonesia was implemented in a very short time. It took only 382 days from Suharto was forced to step down until the new multiparty election was held on June 7th 1999. During that period Habibie as a new president had initiated a reform of the election laws, there were still several demonstrations against the ruling regime and several new parties were founded and prepared for the new election. In this thesis I have focused on the process leading to the new election laws, the framework for the new democracy. I started out with a hypothesis, and I will now discuss it more thoroughly:

8.1 Did the dominant group decide on an election law that would maximise its possibility of staying in position?

One of the main dilemmas of this analysis has been that whatever election law Golkar decided on, the outcome of the election did not give the same result as they and the opposition inside and outside parliament had guessed on. I have in this thesis discussed how the notion of the different system, proportional representation versus district system, was taken into consideration in the debate. The major oppositional groups outside parliament followed Lijphart's assumption, and feared that Golkar could gain so many votes that they with a district system would secure their position in parliament. And on the other side the president started out going for a district system, but his Golkar-party fellows in parliament doubted more and more that they would gain as many votes as needed to stay in position with a district system.

When the election came on June 7th Golkar gained only 22 percent of the votes. Nevertheless, as I have discussed in chapter 2, rationalising post-election is not logical valid and will not of course give any answer to my question as most people thought Golkar would gain a lot more votes at the time when the election laws were adopted. However, the result of the election at least tells us that the calculation on

election system from the government and from Golkar has not been by any means sufficient for their ambitions of staying in power.

It might seem that Golkar's view on the debate between proportional and district system tended to have been overshadowed by their focus on accountability; hence Lijpharts' (1984) theories on election systems and seat allocation played a minor role in their discussions. Golkar-members of parliament were afraid to fight for their seat in small districts far away from Jakarta where they were not known as a person but only for the party they represented. Therefore it was important for Golkar to stay with the proportional system. This is also one of many possible reasons why they did not open up for regional based parties, as this would have led to fight against parties with a local base. However, Golkar was supported by the major opposition parties on this, as they representing the broad muslimorganisations and PDI-P¹⁸ had charismatic well known leaders on national level who thought they would gain more votes based on their leaders than on their local party members and the districts. Therefore it seems like the debate on election system was more pragmatically than politically oriented. It was also more oriented towards securing that the candidates would not have to face the voters, than that the votes were allocated to secure that both the majority and minority could be represented. By choosing to continue with a proportional-based system the parliament by a paradoxe seem to both reform the system by including more than three parties, and to secure a status quo with continuing to keep the distance between the parties and their representatives on one side and the voters on the other.

On the other side, Team of Seven tried to enforce accountability of the party representatives towards their constituents, and would therefore move the power from Jakarta towards the electors in the districts. When their proposal on a district system was neglected by Golkar, it was probably because of the accountability and not because of a calculation of possible seat allocations. However, president Habibie

¹⁸ The leader of PDI-P was Megawati Sukarnoputri, the daughter of Indonesia first president Sukarno

supported Team of Seven. Although we should remember that his support came in an early phase of the transition during the summer of 1998 while most people still believed that Golkar could benefit in seats from a district system, the different positions of Habibie and Golkar-members in parliament on this point shows us that there were disagreements within the ruling party. This disagreement led to different negotiations, to new alliances and was a sign of factionalism within the ruling party.

Only Habibie and the Golkar-members of parliament would know if their efforts in the debate were a big miscalculation, or if they did not have any other possibility than to move for free election with an understanding that Golkar's time of reigning Indonesia was over.

8.2 The effort of keeping Indonesia united

If the choice of an election system was a result of long and tough negotiations within parliament and between parliament and outside opposition, the debate on federalism and the inclusion of regional parties were apart from some incidents a quiet one. The major obstacle to this quietness was that international pressure gave East-Timor the possibility of holding a referendum on August 31st 1999 that gave the province independence from Indonesia. In the debate of election laws it was important for most major parts to keep Indonesia united. Federalism was almost not discussed, both due to historical reasons and because there was not enough time within the drafting process to also discuss and agree on changing from a unitarian to a federal state. The party law imposed parties to have a broad regional base in at least nine provinces and was hence a guarantee towards securing a stable democracy, although excluding separatist movements in parliament could be a danger if it had not been for the military.

As I have discussed both Team of Seven and the major parties inside and outside parliament were in favour of keeping ABRI-representation in parliament. This would hopefully secure a stable Indonesia, and could also be seen as a guarantee for those

people fearing that the military otherwise could have made a coup d'état. ABRI's position remained strong through the drafting process. It was General Wiranto who asked Suharto to withdraw, and as the political crisis in May 1998 peaked, "Amien Rais and others continued to keep open lines of communication with the military and other regime leaders, stressing their desire for a negotiated transition" (Aspinall 2000: 348). ABRI had been the stable defenders of a united Indonesia by their dwifungsi-role through the entire presidency of Suharto. By giving them seats in parliament, they would still remain in their position. On the other hand this also shows that the military played a role in the drafting process. And as I have discussed in chapter 7.2 above military representatives could also favour from the party laws and the requirement for a base in 9 out of 27 provinces. This could lead to a new opportunity for retired generals and other military leaders to continue in politics based on their powerbase in the districts of Indonesia, although they then have to fight as civil and not military leaders.

8.3 How did the ruling regime co-operate with other parties, NGOs and/or parts of the civil society in?

The transition theories of Karl and Schmitter, Linz and Stepan and Atul Kohli, as I have discussed in chapter 6 above, all recognise the importance of alliances between the ruling regime and other groups during a transition. This was as we have seen also vital in Indonesia. At the very first days of Habibie's presidency he invited Amien Rais and others in opposition to co-operate for making a timetable for a democratic reform. Both Rais and other middle class and moderate NGO-leaders were confident with Habibie's idea of creating a new multiparty democracy and an agreement close to what Karl and Schmitter calls a pact was made. Aspinall also discuss this when he says that "although there was no explicit pact between opposition and government, as occurred in some of the Latin American transitions over a decade earlier, an implicit compromise was thus reached (Aspinall 2000: 350).

As I have discussed, the main leaders of the opposition, i.e. Megawati Sukarnoputri, Abdurrahman Wahid and Amien Rais, benefited a lot with the new election laws as they were among the only NGO's with a network large enough to form parties and contest the election as they were represented all over Indonesia. Besides that, the proportional system gave all of them a chance to be represented in parliament, and the accountability towards the party and not towards the constituents gave them the possibility of fighting by their national charismatic leader, and not by an unknown fellow in the districts.

New pacts and new alliances were built between NGO-leaders and the government. And also the military seemed to have been involved in alliances with the major NGO-leaders as they gained representation in parliament.

On the other hand the major NGO-leaders shifted side. First they, at least Amien Rais, stayed side by side with the student organisations and the democracy-movement demonstrating against Suharto. But as soon as Suharto withdrew; the major NGOs shifted side and offered both ABRI and the new president a chance to cooperate. By that pact, the students, who had been seen as a symbol of the fight against Suharto was again left out in the street, while major oppositionals entered the arena of civilised negotiations with the government. By this effort, the rest of the drafting process and transition to democracy was a top-down-oriented pact that gave the student, regional and traditional democratic movement little or non influence on the result.

There was also another shift in the major NGO-leaders position. After making a pact with Habibie on the timetable for new elections and ensuring that they would keep silent they also shifted side when it came to supporting Habibie's and Team of Seven's proposal for a district system. On this issue they supported Akbar Tanjung and Golkar-party in parliament. However, I cannot find that this shift was in opposition to the pact that had been made, as I find this only as a pragmatic and not political issue for the NGO-leaders.

9 CONCLUDING REMARKS

I started out by asking what were the main propelling forces behind the election laws, and whose advice, if any, did the legislators of the laws follow in their decision-making? My analysis has shown that some of the problems that a non-democratic elected parliament and government have to deal with in a transition from authoritarian regime towards a democracy.

First of all, after the opposition with the support of the military had forced Suharto to step down, it seems to be clear that the new President Habibie had to seek support for his project of opening up for a democratic election also outside the parliament.

Habibie therefore quickly after he took power, started his work to gain support from the big and moderate NGOs who was the middle-class opposition that had demonstrated against Suharto. These NGOs, represented by Amien Rais and others, therefore accepted Habibies project, and at the same time the radical opposition was left out. By this way Habibie made an outstanding manoeuvre and changed the transition so that the initiatives were no longer with the masses, hence the elites had got the initiative. If we put this into the figure of Karl and Schmitter (1991) we have seen that this is a sign that the transition moved from being a reform to being a pact. Habibie's room to manoeuvre was at the same time what Kohli would call narrowed (Kohli 1993: 673). He therefore did not dare to decide on new election laws himself after Team of Seven had made their proposal. So when Habibie was confronted by the the new General Chairman of Golkar Akbar Tanjung who thought the proposed system departed too radically from the past, President Habibie decided to pass the discussion of the election laws to the Parliament. The ruling elite was therefore divided, and it was up the members of parliament to negotiate.

The discussion in Parliament ended up with the adoption of new laws in late January 1999, only few months before the general election, and it therefore gave the new parties limited time to prepare themselves. Even though both the governments own group, Team of Seven, and other groups like LIPI and the NGO-consortium had tried

to influence by proposing new election laws, the final laws were a result of negotiation where both the members of parliament, the military and the middle class opposition that agreed on a pact with Habibie could benefit. Here the authoritarian regime with narrowed room to manoeuvre gave seats in parliament to the military who was the one who had asked the former President Suharto to withdraw. And the regime made it easier for the big and moderate NGO's to form parties, while it became much more difficult or almost impossible for regional parties and smaller opposition groups to form parties, register, and compete in the election.

I have also discussed the difficulties of Lijphart's (1984) theories on proportional representation versus district system. It seems to have been an agenda for Team of Seven, LIPI, the large moderate NGO's, the members of parliament and President Habibie to limit the numbers of new parties contest the election. Therefore Team of Seven and LIPI proposed district system as the final solution, knowing that this based on Duverger's Law would lead towards fewer parties. Team of Seven also kept another agenda when proposing district, and that was to make the members of parliament accountable to the voters, letting them have to compete on district level far away from Jakarta. Habibie could live with that, but General Chairman of Golkar Akbar Tanjung could not. At the same time, the uncertainty of the result of the forthcoming election, made it too dangerous for all groups to go for a clear district system that could have left some major groups without seats in parliament. The uncertainty and the fact that the members of parliament had lived in Jakarta for years and were afraid to fight for their seats in rural districts far away from Jakarta, made it difficult for them to go for a clearcut district system. So when Lijphart focuses on seat allocation as the major difference between the two systems, the Indonesian debate focused on the discussion of accountability towards the electorate or the party.

I will therefore argue that the main propelling forces behind the election laws were the members of the parliament with the support of the military and the moderate middle class opposition who joined in a pact to form the new political system. The

impact of the smaller NGO's, the students and radical opposition was very little, and the international society seemed to stay calm in the process of making the new laws.

List of Abbreviations and Acronyms

ABRI	Angkatan Bersenjata Republik Indonesia (Armed Forces of the Republic of Indonesia)
DPR	Dewan Perwakilan Rakyat (The People's Representative Council)
Golkar	Golongan Karya (Functional Groups)
KPU	Komisi Pemilihan Umum (General Election Commission)
LIPI	Lembaga Ilmu Pengetahuan Indonesia (Indonesian Institute of Science)
MPR	Majelis Permusyawaratan Rakyat (People's Consultative Assembly)
NU	Nahdlatul Ulama (Rise of the Islamic Scholars)
PAN	Partai Amanat Nasional (National Mandate Party)
PBB	Partai Bulan Bintang (Crescent Star Party)
PDI	Partai Demokrasi Indonesia (Indonesian Democratic Party)
PKI	Partai Komunis Indonesia (Indonesian Communist Party)
PPP	Partai Persatuan Pembangunan (United Development Party)
YLBHI	Yayasan Lembaga Bantuan Hukum Indonesia (the Indonesian Legal Aid Foundation)

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Indonesian law number 2 (1999)

Indonesian law number 3 (1999)

Indonesian law number 4 (1999)

Interviews:

During the period from August 11th through September 7th 1999 I made the following interviews in Jakarta. All interviews except one (Mr. Djuhad Mahja) was made in English. Names of persons interviewed and the positions they held at the time of the interviews are listed here:

Bjornlund, Eric (1999). *Interview at NDI's office*. August 26th. Bjornlund was Country Director for National Democratic Institute for International Affairs (NDI) in Indonesia.

Darusman, Marzuki (1999). *Interview at Regent Hotel*. September 4th. Darusman was Deputy Chairperson of GOLKAR Chairperson of the Indonesian National Commission on Human Rights (KOMNAS HAM).

Evans, Kevin (1999). *Interview at Sari Pan Pacific Hotel, Jakarta*. September 6th. Evans was electoral adviser for UNDP (United Nations Development programme) in Indonesia.

Gaffar, Afan (1999). *Interview at KPU*. September 7th. Gaffar was professor of political science professor at Gajah Mada University, Member of Team of seven, Member of Team 11 and government appointed member of KPU.

Liddle, Willam (1999). *Interview at Sari Pan Pacific Hotel, Jakarta*. August 11th. Liddle is Professor of political science at Ohio State university.

Lubis, Todung Mulya (1999). *Interview at his office*. August 24th. Lubis was Coordinator of Universities Network for Free and Fair Election (UNFREL) (1998-1999), Vice Chairman of the Central Board of the General Election Supervising Committee (PANWASLU) (1999). Member of the Board of Trustees of the Indonesian Legal Aid Foundation (YLBHI).

Mahja, Djuhad (1999). *Interview (with interpretation) at KPU*. September 6th. Mahja was PPP-delegate to KPU.

Mallarangeng, Andi (1999). *Interview at KPU*. September 1st. Mallarangeng was member of Team of Seven, Team 11 and government appointed member of KPU.

Nababan, Asmara (1999). *Interview at his office*. August 30th. Nababan was General secretary of the National Human Rights Commission, KOMNASHAM.

Nasution, Adnan Buyung (1999). *Interview at his office*. August 31th. Nasution was Member of Team of eleven.

Pabottingi, Mochtar (1999). *Interview at his office*. September 3rd. Pabottingi was a political scientist at Indonesian Institute of Science (LIPI).

Saleh, Abdul Rahman (1999). *Interview at KPU*. September 2nd. Saleh was PBB-delegate to KPU.

Santoso (1999). *Interview in his car on the way from Utan Kayo 68H to Hotel Indonesia*. August 31th. Santoso was Deputy secretary of National Mandate Party (PAN).

Widjojanto, Bambang (1999). *Interview at his office*. August 31th. Widjojanto was Director of the Indonesian Legal Aid Foundation (YLBHI).

APPENDIX

Question guidelines for the interviews made in Jakarta

1. Was a federal system-model never discussed in Indonesia?
2. Was it ever discussed why all parties have to acknowledge the Pancasila ideology?
3. What is the unique hybrid between PR and a majoritarian (district) system? Why did Golkar accept this, and how did the other parties look on this question?
4. Why did ABRI accept a decline in seats? How strong was ABRI in the process of creating the electoral laws, and was there ever a serious debate about not giving ABRI any seats in the DPR at all?
5. What about the role of the civil servants? Was it ever discussed to give them some seats in DPR?
6. Which were the other groups giving advices to the process of making the laws, in addition to the Team of Seven (Tim Tujuh)?
7. The students were strong and were supported by the rest of the opposition when they demonstrated against Suharto during spring 1998. What was their role in the further transition process?
8. What sort of alliances seem to have been build between the Habibie-regime and the opposition (PDI-P, PAN, PKB (PPP) and so forth) since they have managed to wipe-out all other serious opposition, the student and the regional opposition included?
9. Why is no regional party allowed to participate, even in the local elections?
10. Was there any real consequence by the decision that a party only need to have branch in nine provinces, and not in half of them as suggested?
11. Who are the 65 and 135 members in MPR, and why chose this rather undemocratic model?

12. What is the role of KPU and Team of eleven (Tim Sebelas), and did they perform as expected?
13. Which parties is allowed to participate in the next election, and is there going to become compromise on this issue?
14. Is there going to be any further changes in the election laws?
15. To understand how the election laws work, what was wrong about the 90, or so, parties that were not allowed to contest the elections?