

Presidential Threshold (Discourse Review on Strengthening Presidential Systems in Indonesia)

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Abstract—This research aims to provide the answer about how the dynamics of the Presidential Threshold pros cons in Indonesia. The purpose of this study was to examine more deeply the dynamics of Presidential Threshold ratification in Indonesia. The research method used in this research is library research method. Data collection techniques used are research literature, documents, and other sources. There are several findings of this research. First, the application of the presidential threshold is a more democratic policy because it does not threaten the existence of political parties in proposing a pair of candidates for President and Vice President to remain constituent. Second, the presidential threshold in elections is needed for strengthening the presidential system in Indonesia by building up a strong figure of President and Vice President, because the elected President and Vice President will have a large base of political support in the parliament. Third, the presidential threshold can force political parties or joint political parties to seriously select candidates for President and Vice President, so that it will bring qualified President and Vice President.

Keywords—presidential threshold; parliamentary threshold; political dynamics; the presidential system in Indonesia

I. INTRODUCTION

The results of the 1945 constitutional amendment mandating the election of the president and vice president to be carried out directly by the people. However, the problem arises regarding the mechanism and requirements of the Candidates for President and Vice President, especially relating to the presidential threshold stipulated in Law Number 42 of 2008 concerning Presidential Election and Vice President (Ansori, 2019).

The debate in determining the presidential threshold as a condition is also inseparable from political factors in the Legislative Election and the Presidential Election which will be held simultaneously in 2019. The Constitutional Court Decision Number 14 / PUU-XI/ 2013 then becomes multi-interpretation because it intersects with political issues. In July 2017, The House of Representatives passed the Election Bill (RUU) into the Election Law which regulates the 5 provisions of the implementation of the election including the presidential threshold. This law is controversial because the regulation requires a threshold of presidential candidacy to reach 20% (Iqbal, 2019).

The existence of new rules which is called the presidential nomination threshold or the Presidential Threshold is considered to respond to Indonesian democratic spirit because it does not harm the rights of Indonesian people, referring to the principle of community democracy and stakeholders must participate in taking a decision and be responsible together as consensus in running the government. Along with the support of the parliament, it is easier for the president to carry out his noble duties to produce superior public policies, good public services that lead to the welfare of the community. Thus this rule is considered as the first step to strengthen the presidential system in running the government.

The political dynamics in Indonesia are getting hotter ahead of the 2019 elections, where the legislature has ratified new threshold regulations in the presidential candidacy, this decision is considered to benefit the major parties or ruling party such as; PDIP, Golkar, Nasdem, PKB, while the Gerindra party does not agree with this regulation.

In brief observation, some experts reject this new regulation because the conditions required in determining the presidential nomination must refer to the constitution, it should not be added by anyone, reflecting on previous elections there is no one party that suffices this threshold so that the presidential nomination has been determined 2014 elections. Political observers in droves submitted a lawsuit to the Constitutional Court to return the primary meaning that had gnawed at people's rights because as if the threshold had set a nomination in the previous election, the major votes lost in 2019 would remain to nominate the president, while the new party that will be the winner in 2019 will not be able to carry his cadres as president but must wait five years to come (Gerung, 2018).

There are some parties who do not agree and reject the threshold policy in the nomination of the President. Even before the ratification, the four factions (F-Gerindra, F-PAN, F-PKS, and F-Democrats) in the DPR refused directly by taking a walkout before the bill was passed into Law. On the contrary, many parties which supports the presidential threshold enforcement policy, the reason is that it can be a means of strengthening the presidential system adopted in Indonesia (Pamungkas, 2019).

With the background above, this paper specifically discusses two matters relating to presidential thresholds first, how the presidential threshold is stipulated in Indonesian legislation, and second, how the presidential influences the strengthening of the presidential system in Indonesia.

II. METHOD

A. *Sample*

This research uses library research, as a sample used based on documents, books, and trusted media. By reading and recording literature or books. A series of activities relating to the method of collecting library data, reading and recording and processing research materials. Data in library research still exists to answer the problem of this research. Empiric information or data that has been collected by other people, in the form of research reports or official reports, books are the main reference in completing research. Because the problem with this research is very relevant answered through library research.

B. *Measurement*

The measurement scale in this study is carried out systematically, empirically and logically as a reference for knowing scientific truths, by comparing various literature, relating to this research, in the form of books, documents, media, and expert opinions. Then analyzed the level of authenticity, and the correctness of the data is in accordance with the evolving dynamics. Then draw conclusions objectively.

C. *Analysis*

This study uses descriptive analysis, where the analysis prioritizes objective interpretations, namely in the form of in-depth study of a problem. The research data is described by content analysis, descriptive analysis (descriptive analysis) and (analysis or other types of analysis relevant to the focus of the research (Stiawan, 2014).

III. FINDING AND DISCUSSION

A. *Pros and Cons of the Presidential Threshold in Indonesia*

In terms of supporting the presidential system in Indonesia, it certainly requires a good system to fill the presidential position, namely the presidential threshold. Which is very much in line with the legislative winner in parliament, therefore the strong basis of legitimacy really needs strong support from very open political parties and can only be implemented through the presidential threshold, the presidential threshold is also very useful for the implementation of effective and efficient elections (Rajab, 2017).

The government has maintained a threshold rule or presidential threshold which later became a legal issue against the organizers of simultaneous elections in 2019 which in the future is considered contrary to the amendments to the 1945 Constitution, namely injuring the principles of sovereignty in the hands of the people, the presidential threshold is also detrimental to political parties only by not giving equal opportunities to the party participating in the election (new party) is this rule considered to dwarf the new party where the presidency of the presidential candidate has been confirmed at the time of the 2014 election. The presidential threshold also has a negative effect on the presidential system in Indonesia because it will stop giving birth to different support in political parties as well as non-parallels between parties that are harassing parliaments and parties that benefit the party so that it will affect the performance of future presidents (Riwanto).

The mechanism for filling in the positions of president and vice president is arranged in section 64 of the 1945 Constitution which requires the president and vice president to be proposed by political parties and a combination of political parties. Further regulations are regulated in Law No. 7 of 2017 when the conditions for nominating a president and vice president by political parties are required to meet the presidential threshold. The existence of this regulation shows the presidential threshold in filling the position of president and vice president. This provision is contrary to the principles of constitutional democracy, wherein the rights of citizens are guaranteed in the constitution such as the right to vote, the right to nominate and the right to nominate candidates in filling in the positions of president and vice president. This rule clashes with democracy because the government increasingly limits the right to nominate candidates because in filling the position of president and the vice president has been determined by legislative power (Fuqaha, 2017).

B. Legislation of Presidential Threshold in Indonesia.

The presidential threshold for the presidential election is regulated of the level of support threshold from the DPR, either in the form of ballot numbers or the number of seats that must be obtained by political parties participating in the election in order to nominate a president from the political party or by a joint political party. Whereas in the decision of MK No. 14 / PUU-XI/ 2013 stated that the presidential threshold is the limit for the submission of president / vice president (Dahl, 1989).

The terminology of the threshold in elections is commonly heard in countries with a democratic system threshold can also be understood as a system of proportional representation, numbers, and minimum proportions, from the number of voters to be representatives/representatives in parliament. This term is often used to set the parliamentary threshold and the president's threshold to be able to take part in the election (presidential threshold) (Justin, 2013).

Juridical presidential threshold arrangements are stated in Article 9 of Law No. 42 of 2008 concerning the General Election of the President and Vice President. In this law, it is stated that:

"The candidate pair is proposed by a political party or a combination of political parties participating in an election that meets the requirements of obtaining a seat of at least 20% (twenty percent) of the number of DPR seats or obtaining 25% (twenty five percent) of national legitimate votes in the election of DPR members, before the election of the President and Vice President"

In the latest law Number 7 of 2017 concerning General Elections in article 222 states that:

"The Candidate Pairs are proposed by Political Parties or Election Contesting Political Parties that fulfill the requirements for obtaining seats of at least 20% (twenty percent) of the number of DPR seats or obtaining 25% (twenty-five percent) of nationally valid votes in the election of DPR members."

To be brief, actually, the presidential threshold policy is related to the parliamentary threshold policy or the parliamentary threshold which overrides the electoral threshold (Ghaffar, 2012) This Presidential threshold is one of the ways to strengthen the presidential system through the simplification of political parties. The goal is to create a stable government and does not cause the running government to experience difficulties in making policy with the legislature.

The application of the presidential threshold according to the assessment of the Constitutional Court through Decision Number 3 / PUU-VII / 2009 is a more democratic policy because it does not threaten the existence of political parties in proposing candidates for President and Vice President. The Presidential threshold is deemed not to contradict the 1945 Constitution of the Republic of Indonesia because it does not negate the principle of popular sovereignty, nor is it discriminatory because it applies to all political parties (Wibowo, 2015).

However, the application of the presidential threshold has the consequence of the loss of opportunity and the right of citizens through political parties that do not fulfill the specified number of numbers to nominate candidates. Therefore, it should be noted; in accordance with the principles of democracy, in determining the threshold of the amount of presidential threshold, it should not harm certain groups of people, especially minorities.

Determination of the threshold of the presidential threshold must pay attention to the diversity of the community reflected in political aspirations (Sodikin, 2014).Determination of the presidential threshold needs to be carried out proportionally and pay attention to the balance between the legal politics of party simplification and protection of political diversity. The determination of the threshold of the presidential threshold should not be made based on consideration of the advantages and disadvantages that will be obtained by the political party (Pamungkas, 2009).

The Constitutional Court through its decision, namely Decision Number 14 / PUU-XI/ 2013, affirmed that the provisions concerning the presidential threshold are open law policies or delegations of open authority which can be determined as legal policy by the legislator. Therefore, the Constitutional Court submitted the issue of the presidential threshold to the legislators, namely the government and the DPR (MK. No. 14 / PUU-XI/ 2013)

Referring to the decision of the Constitutional Court, it can be interpreted that the application of the presidential threshold in the election of the President and Vice President is not contrary to the constitution, nor does the abolition of the presidential threshold also contradict the constitution. Thus the presence or absence of a presidential threshold in the election of the President and Vice President actually remains constitutional.

The main foundation of implementing the presidential threshold with the decision of the Constitutional Court that the threshold rule is not contradictory to constitution, taking into account all legal aspects, the presidential threshold is still relevant for the government to apply in the upcoming elections, this regulation also strengthens the president's presence as head government, is more flexible in carrying out the wheels of government in a constitution, thus the author feels it is time for Indonesia to reactivate this rule, in order to strengthen the support of the parliament in order to encourage a more progressive development in Indonesia in the future.

C. *Presidential Threshold as A Discourse in Strengthening The Presidential System In Indonesia*

In formulating the 1945 constitutional amendment, there is no definite provision regarding the presidential threshold, so at that time the formulation agreed was to delegate to the legislative institution to regulate it in the Law. The presidential threshold can still be applied Likewise vice versa; the presidential threshold can be eliminated if the legislator wants it. This means that the existence of the provisions of the presidential threshold depends on the legal politics of the legislator. Further provisions regarding simultaneous general elections need to be implemented because there are things that cannot be formulated directly in the 1945 Constitution because they are easy to change and very technical (UU Pemilu, 2017).

Using the presidential threshold or abolishing the presidential threshold in the upcoming 2019 simultaneous elections certainly both contain advantages and disadvantages, especially in relation to the strengthening of presidential systems. Therefore, it is necessary to study in depth to keep using the presidential threshold or eliminate the provisions of the presidential threshold, not based on short-term political considerations. If examined in depth, there are several advantages of applying the presidential threshold in elections and its relation to strengthening the presidential system in Indonesia (Sodikin, 2014).

First, the application of the presidential threshold in the election can bring up a strong figure of the President and Vice President, because the elected President and Vice President will have a large base of political support in the parliament so that the implementation of government can be effective and stable. In a certain degree, this condition can strengthen the presidential system adopted by Indonesia. Second, the elimination of the presidential threshold as a condition the nomination of elections for the President and Vice President can cause the parliament to tend to be dominant, thus weakening the presidential system. Third, the application of a high presidential threshold forces political parties or political parties to select candidates for President and Vice President in earnest, so that it will bring qualified President and Vice President. Fourth, the application of a presidential threshold will create a coalition to strengthen the implementation of government, so that it will establish an effective government (Ansori, 2014). Fifth, the presidential threshold in the submission of candidates for the President and candidates for Vice President is intended to simplify the party system. Political parties after the general election will form two shafts, namely the axis of the government as the bearer and the axis of opposition. So that in the parliament there will only be two powers, and political parties will be affiliated with other parties. With this model, the performance of the president as an executive in terms of governance will be more effective (Ansori, 2014).

The implementation of effective democracy must also be proven through the implementation of good governance as a transformation of democracy itself, therefore, the presidential threshold is not to limit public rights, but as an effort of the government through this regulation, to support the elected government (vice president of the president) future. This means that the elected people will always have a ministry between the legislative and executive as well as strengthen checks and balances between the two institutions, with the support of the government parliament not made noisy with the various political dynamics that exist, one of which the presidential threshold can limit conflicts between institutions that always become an obstacle for the government in realizing superior public policies in Indonesia.

On the contrary, the presidential threshold also has many weaknesses, including *First*, with the coalition of political parties in carrying out candidates for President and Vice President it is very vulnerable to exchange of interests (transactional politics). In a certain degree, a coalition of political parties like this will actually weaken the presidential system because the President is held hostage by the party in his coalition. *Secondly*, the application of the presidential threshold will also limit political parties that have just participated in the General Election in 2019 and cannot a coalition to support candidates for the President and Vice President, because they do not have a number of parliamentary thresholds. A situation like this is the removal of the right of political parties to carry out presidential and vice presidential candidates whose rights have been guaranteed in the 1945 Constitution. *Third*, in the perspective of the constitution, some parties consider that the application of the presidential threshold is contrary to the 1945 Constitution, the presidential threshold is deemed to have eliminated the meaning of recognition, guarantees of fair legal protection and certainty, and equal treatment for every citizen before the law. Furthermore, the provisions regarding the mechanism for the requirements to nominate a pair of President and Vice President for reasons as a way to form an effective government and as a solution in the framework of simplifying or rationalizing political parties, have eliminated citizens' right to choose intelligently and efficiently "political efficiency."

IV. CONCLUSION

The Presidential Threshold has become a legal issue in the implementation of simultaneous elections in 2019. So there are pros and cons in the society, but this problem has been resolved by the government in the constitution, where the government maintains a presidential threshold as an absolute requirement in proposing presidential candidate pairs and vice president in Indonesia. The constitution of the threshold rules does not undermine the rights of the people as stipulated in the principles of democracy, with the presence of the presidential apparatus the values of democracy are maintained fully, where the people continue to participate in the upcoming elections. As explained that the threshold presidency in the Election Law does not conflict with the Constitution and remains constitutional. The legal basis

regarding the threshold presidential can be seen in Article 9 of Law No. 42 of 2008 concerning the General Election of the President and Vice President, also in Law Number 7 of 2017 concerning General Elections, these two laws serve as a juridical basis for the implementation of the presidential threshold system in the Presidential election in Indonesia. The presidential threshold is actually aimed at strengthening presidential systems in Indonesia, although it must be admitted that they still have some weaknesses. Regardless of whether or not an agreement on the presidential threshold regulation passed by the Republic of Indonesia Parliament the other day, Indonesia in the practice of electing the President and Vice President has tried to realize a rigorous leader selection process, the aim of which is to produce decent and quality leaders. In filling in the positions of president and vice president, it actually needs a good format to support the performance of governance, whoever is elected president without the support of the majority of the parliament is also impossible that good governance will be realized. So to realize good government, the government has precisely set a threshold rule in carrying out the presidential pair called the presidential threshold.

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