Role Studies of the Civil Society Organization Perludem and Its Implications through the Judicial Review Article 414 of the General Election Law

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ABSTRACT

This paper seeks to explain Perludem's role in strengthening democracy in Indonesia and how the non-governmental organization influences government through in-depth research into the constitutional court's judicial review of Article 414 of the Election Law on the parliamentary threshold. The analysis using qualitative methods based on a literature review highlights Perludem's successful advocacy strategy in advocating for inclusive policies and illustrates the important role of civil society in safeguarding the sustainability of democracy. Perludem argued that high parliamentary thresholds undermine the principle of democratic representation, leaving millions of valid votes unrepresented in parliament. Although the verdict showed that the article was constitutional for the 2024 elections and the Constitutional Court did not change the numerical threshold, the decision needs to be revisited by lawmakers by applying the principle of fairness to the 2029 elections.

Keywords: Civil Society, Democracy, Judicial Review, Parliamentary Thresholds, Perludem

INTRODUCTION

In the modern democratic era, government transparency plays an important role in good governance. However, challenges such as corruption, abuse of power, and lack of openness still exist in developing countries like Indonesia. Non-governmental organizations (NGOs) play an important role in overseeing the government and being the voice of the people. NGOs have flexibility and autonomy in carrying out initiatives, such as policy advocacy, community training, and oversight of government programs. Some NGOs in Indonesia, such as Indonesia Corruption Watch (ICW) and Transparency

International Indonesia, have successfully uncovered corruption cases. Or the society organization Perkumpulan untuk Pemilu dan Demorkasi (Perludem), which aims to improve democracy in Indonesia, has played an important role in every democracy issue in Indonesia. However, NGOs also face challenges such as political pressure, lack of resources, and resistance from the government. Synergy between society, media, and the international community is needed to support the work of NGOs.

Non-governmental organizations (NGOs) in English Civil Society Organizations (CSOs) or also called Non-Government Organizations (NGOs) are organizations established by civil society that aim for certain interests such as social action, political goals, state issues. NGO is generally defined as an organization established by the community for the purpose and interest of the community without the aim of profit. NGOs are often seen as one of the important pillars of democracy. According to Cohen and Arato (1992), civil society includes various non-governmental organizations, advocacy groups, community-based associations, trade unions, and Non-Governmental Organizations (NGOs) that play a role in strengthening democracy through monitoring state power. In this context, civil society acts as a link between the state and citizens, providing space for active participation in the political decision-making process.

One of the main roles of NGOs is to strengthen government accountability and transparency. According to the literature, civil society organizations often function as watchdogs that monitor government performance and highlight irregularities or violations. In many cases, they are instrumental in advocating for human rights, pushing for policy reforms and promoting good governance. This function is increasingly important in developing countries, including Indonesia, where challenges such as corruption, abuse of power, and weak judicial systems often hamper the sustainability of democratic governance. In addition, NGOs also have a significant role in building inclusive political participation. Participatory

democracy theory, as outlined by Carole Pateman (1970), emphasizes that the active involvement of the public in public affairs is the essence of a healthy democracy. Civil society organizations can provide a platform for marginalized or minority groups that are often ignored by the formal political system to voice their aspirations. Through various forms of activities, such as voter education, public discussions, and advocacy campaigns, civil society encourages people to better understand their rights and actively engage in the political process.

World Non-Governmental Organization (NGO) Day is celebrated every February 27 and only started in 2014. The definition of NGOs refers to organizations that aim to fight for the interests of the people and are established voluntarily without a profit motive. NGOs are also known as non-partisan civil society organizations with specific functions and characteristics compared to government or private institutions. Civil society organizations were originally formed in the 17th century in England by religious and private professionals to help solve crises. Development and the process of marginalization of the majority of society influenced the development of NGOs, with the green revolution and urban industrialization being the focus of criticism. NGOs work at the grassroots level by providing a variety of services to the poor in the form of materials, services and training.

NGOs in Indonesia have undergone development and change since the New Order in the 1970s to the reformation period in 1997. In the beginning, NGOs focused more on community development and development, but by the 1980s, the forms of struggle became more diverse, including political advocacy for policy change. The increase in the number of NGOs was also driven by advances in information technology. After the fall of the Soeharto regime, the number of NGOs in Indonesia decreased, but they were spread not only in big cities, but also in remote areas. The issues addressed by NGOs are also increasingly diverse, including environmental issues, human rights, gender, local wisdom, and labor protection.

In a journal entitled The Dynamics of NGOs in Indonesia and Their Contribution to Democracy Development, Cholisin mentions four typical generations of NGOs, namely: NGOs in Indonesia have also developed in four generations. The first generation was more focused on helping social problems, the second generation focused on solving poverty problems, the third generation focused on political development policy issues, and the fourth generation fought for community empowerment and minimizing state power.

NGOs today play an important role in the development and empowerment of the poor. They can successfully participate in development at a lower cost and run programs that private businesses or governments cannot afford. NGOs can also intervene with the new generation of the poor who are engaged in the informal sector. The success of NGOs is due to their simple organizational structure and proximity to the communities they serve. Despite not having the grand structure of a conglomerate business, NGOs are often backed by experts and have the idealism to help the poor without reward. While some NGOs are motivated by political interests or profit, the democratic and transparent structure of NGOs ensures their survival. NGOs that are honest and successful in helping communities will thrive because many donors are interested in helping them.

In the context of a democratic state, the existence of an accountable and participatory government system is key to the implementation of a democratic state. A democratic state is characterized by the active involvement of the community in decision-making through free, fair and inclusive election mechanisms. Dahl (1971) argues that an ideal democracy should provide equal opportunities for all citizens to participate in politics, either directly or indirectly, through fair representation. However, one of the main challenges in a democratic state is to create a political system that is not only competitive but also representative. In this regard, policies such as parliamentary thresholds are often debated as they can limit political pluralism and make it difficult for smaller parties to participate in government.

The sustainability of democracy also relies heavily on the role of non-state institutions, such as civil society and non-governmental organizations (NGOs). Organizations such as Perludem, which focuses on democracy and electoral issues, serve as guardians of democratic values by advocating for more inclusive and equitable policies. In the study of democratic states, the active involvement of non-state actors is considered capable of filling gaps in the democratic system, such as the inability of the state to fully represent the needs of diverse communities. In addition, democratic states ideally encourage open spaces for public discussion, as described by Habermas (1989) in the concept of the public sphere, where people can participate in critical debates without state intervention or market interests.

However, the literature also notes that democratic states often face a dilemma between maintaining political stability and maintaining democratic inclusiveness. Policies such as parliamentary thresholds are often justified as efforts to simplify the political system, but on the other hand can create political exclusion for certain groups. In this context, advocacy and lawsuits carried out by NGOs such as Perludem are important as a form of control over policies that are considered contrary to the principle of fair representation. Thus, the existence of a democratic state is not only determined by state institutions, but also by the active role of civil society in maintaining democratic values.

Electoral policies have a significant influence on the quality of democracy, as the rules governing the electoral process determine how people's votes are translated into political outcomes. Norris (2004) argues that a good electoral policy is one that strikes a balance between political stability and inclusive representation. However, in many cases, policies such as parliamentary thresholds are often contentious due to their potential impact on reducing political pluralism. High thresholds can deprive small parties of the opportunity to participate, resulting in only large parties dominating parliament.

In addition, an electoral system that is not inclusive can also weaken people's political participation. Overly restrictive policies, such as high thresholds, can leave the voices of certain groups unrepresented, leading to distrust of the democratic system. Such policies can also force parties into preelection coalitions, which often result in pragmatic alliances with no clear ideological basis, clouding people's political choices (Carey & Shugart, 1995).

RESEARCH METHOD

In this study, the type or type of research is qualitative research. Qualitative research is research that intends to understand the phenomenon of what is caused, produced, or the consequences of the actions of the research subject. While the approach used in this research uses descriptive research design and case studies. Case study research is a qualitative approach in which researchers explore real life, contemporary limited systems (cases) or various limited systems (various cases). The case that the researchers studied in this study was the success of the Perludem Institute in its lawsuit against the Election Law article 414 concerning the parliamentary threshold. The data collection technique used in this research is to collect secondary data from books, previous journals, theses, official court decision documents, and writings / documents listed on the Perludem website page.

RESULT AND DISCUSSION

Perludem's Activities and Role in Strengthening Democracy

In a democracy, civil society is a key element that sustains democracy. The existence of civil society can be likened to oxygen, which is the main requirement for democracy to grow and develop. Democracy and civil society have a symbiotic relationship like two sides of a coin that complement each other. Without a strong civil society, democracy has the potential to turn into state authoritarianism.

By understanding the important role of civil society, Perludem is present as one of the elements of civil society filled with intellectuals and activists. This organization carries a vision, mission, and work program aimed at strengthening democracy in Indonesia. As a democratic country that upholds deliberation and consensus, Indonesia is in dire need of civil society that is active in guarding democracy. When civil society is strong, its impact on the process of consolidating democracy will be more significant. As part of civil society, Perludem focuses on four main areas in electoral reform efforts. First, encouraging the formation of electoral regulations that are in line with democratic principles. Second, strengthening the institutionalization of electoral actors to be more committed to democratic values. Third, seeking law enforcement that supports the strengthening of democracy and justice in elections. Fourth, raising public awareness about the importance of elections and democracy.

Since its establishment, Perludem has produced various publications, including books and journals, which are used by various groups, including students as academic references. Perludem's research covers topics such as electoral systems, electoral participation, law enforcement, and evaluation of election results and democracy. The results of this research are published in the form of books, journals, and press releases, becoming an important contribution to democratic literacy in Indonesia.

The Covid-19 pandemic has brought changes to the method of organizing Perludem's activities. Seminars and discussions that were previously conducted in person shifted to an online platform through the "Perludem Virtual Class" program. This program, which is held regularly, discusses issues related to elections and democracy with a basic concept-based approach that is relevant to actual problems. The material presented covers five main themes: principles and history of elections and democracy, electoral actors, electoral systems, electoral management, and electoral law.

In election monitoring activities, Perludem also plays an active role in

ensuring that elections are conducted in accordance with the rules. They record and document any violations or disputes that occur. Since 2009, Perludem has obtained accreditation from the KPU and Bawaslu to participate as election monitors. In the 2009, 2014 and 2019 elections, Perludem worked together with other monitoring organizations, such as KIPP, JPPR, ICW and LP3ES. In the 2019 elections, Perludem even received accreditation along with 51 other monitoring organizations from within and outside the country, emphasizing its consistency in guarding the transparency and fairness of the democratic process in Indonesia.

Perludem is also involved in activities such as reviewing electoral regulations, procedures, and the strengths and weaknesses of the electoral system. They also recommend improvements to the system and regulations. Perludem takes a different approach to policy advocacy as they believe that it is not enough to rely solely on policymakers, as political actors often ignore public aspirations.

One of Perludem's advocacy efforts is to push for the codification of electoral laws, consolidating the texts of these laws to create a consistent, non-overlapping and systematic electoral legal framework. This effort was facilitated by the collaboration of various stakeholders, including the Independent Election Monitoring Committee (KIPP), the Center for Political Studies and Education at the University of Indonesia (Puskapol UI), the Network for Democracy and Electoral Integrity (NETGRIT), and others. In addition to involving policy makers, Perludem also used legal channels such as submitting material tests to the Constitutional Court (MK) and challenging various regulations at the Supreme Court (MA).

Perludem's efforts yielded significant results, including changes to direct elections in 2014 through Government Regulation in Lieu of Law (Perppu). This regulation later became official law. From 2012 to 2020, Perludem has conducted 17 constitutionality tests related to election laws and regulations. Of these, two cases were fully accepted, five cases were

partially accepted, four cases were rejected, and five cases could not be accepted. In addition, there is one case that is still in process. Some examples of constitutionality testing include testing the period of resignation from a political party before becoming a member of the General Election Commission (KPU), the composition of the Honorary Board of Election Organizers (DKPP), and voting requirements.

Perludem's Challenges As Government Opposition

As a civil society organization that focuses on electoral reform and strengthening democracy, Perludem is often perceived as an unofficial opposition to the government. This is particularly evident from Perludem's role in criticizing public policies that are deemed not in line with democratic principles, such as parliamentary thresholds and electoral system arrangements. Perludem's biggest challenges as an opposition come in the form of political resistance, limited resources, and the state's increasingly strong influence over civic space.

Politically, Perludem's efforts often conflict with the interests of political elites who have great influence in the legislative process. One example is the lawsuit against Article 414 of the Election Law that regulates the parliamentary threshold. This lawsuit shows that Perludem positions itself as the guardian of the principle of political representation, contrary to the government's narrative that the threshold is necessary to simplify the political system. Perludem's critical stance towards government policies often faces resistance from political actors who feel aggrieved. Often, Perludem's actions are perceived as political efforts, even though they are based on empirical data and democratic principles.

Another challenge is the limited internal resources that Perludem faces in running its programs. Dependence on foreign donors is one of the main weaknesses. Support from domestic donors, both public and private, is very limited because electoral issues are often not considered urgent in countries that are considered to have stable democracies. In addition, competition with

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other state and independent institutions in recruiting quality human resources means that Perludem must continue to strive to maintain organizational sustainability. This condition often hampers the effectiveness of their advocacy in the long run.

In addition to internal constraints, Perludem also faces significant external challenges, particularly in terms of the weakening of civic space due to the growing influence of the state. The Central Statistics Agency (BPS) report on the Indonesian Democracy Index (IDI) in 2019 shows that civil liberties decreased by 1.26 points due to repressive government actions that inhibit freedom of opinion, assembly and association. This decline is an indication that the space for civil society, including Perludem, is increasingly limited. This condition was exacerbated by a report from The Economist Intelligence Unit (EIU) in 2020, which placed Indonesia 64th in the world in the Democracy Index with a score of 6.3, down from 6.48 in the previous year. Indicators such as civil liberties and democratic political culture reflect a significant gap between people's aspirations and government policies.

Perludem also faces challenges in building public trust in their advocacy. In the digital age, the spread of disinformation and hoaxes is a major obstacle. Perludem's efforts to educate the public on the importance of fair elections are often disrupted by false narratives that undermine their legitimacy. This shows that as an opposition, Perludem not only faces resistance from the government, but also from public opinion formed by inaccurate information.

Judicial Review of the Election Law Article 414 by Perludem

The Association for Elections and Democracy (Perludem) is one of the civil society organizations that consistently oversees democracy in Indonesia. Since its establishment, Perludem has focused on research, public education, and policy advocacy related to fair and transparent elections. One of the monumental steps that reflects Perludem's commitment is its struggle in challenging Law No. 7/2017 on General Elections, specifically related to the provision of a parliamentary threshold of 4% of the total national valid vote.

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The parliamentary threshold is the minimum requirement of votes that must be achieved by political parties in order to be included in the distribution of seats in parliament. In Law No. 7/2017, it is stated that political parties must obtain a minimum of 4% of the national vote to get seats in the House of Representatives (DPR). Perludem considers that this figure has a significant impact on the principle of proportionality in elections and has the potential to harm the people's votes that have been given to small parties that do not manage to cross the threshold.

Perludem believes that the application of the 4% threshold does not have an adequate basis for study and tends to ignore the principle of electoral justice. In addition, there was no transparency in the determination of this figure during the legislative process. These conditions prompted Perludem to bring this issue to the Constitutional Court (MK) in the hope of improvements in the relevant regulations. Perludem formulated an ideal parliamentary threshold of 1%.

In its petition to the Constitutional Court, Perludem challenged Article 414 paragraph (1) of Law No. 7/2017. They argued that the provision contradicts several articles in the 1945 Constitution, including Article 1 paragraph (2) which affirms that sovereignty is in the hands of the people, Article 22E paragraph (1) which regulates the principle of direct, general, free, secret, honest and fair elections, and Article 28D paragraph (1) which guarantees the right of every citizen to equal treatment before the law. Perludem highlighted that parliamentary thresholds set arbitrarily without adequate academic studies have the potential to undermine the principle of fairness in proportional electoral systems. In addition, they also explained the concrete impacts of the application of the threshold, including the waste of millions of valid votes that are not accommodated in the distribution of parliamentary seats.

The House of Representatives (DPR) rejected Perludem's petition on the grounds that the parliamentary threshold provision is part of an open legal

policy. This means that the determination of the threshold is the authority of the legislator and is not an area that can be intervened by the Constitutional Court.

Meanwhile, the government through the President also stated that the application of the parliamentary threshold is legally valid and aims to simplify the party system in Indonesia. They argued that the threshold was necessary to reduce political fragmentation in parliament and increase government effectiveness.

The Constitutional Court then issued a moderate verdict. In its decision, the Constitutional Court refused to cancel the parliamentary threshold provision for the 2024 elections, arguing that the policy was still within the limits of the legislator's authority. However, the Court also stated that for the 2029 elections and beyond, the determination of the parliamentary threshold must be carried out on the basis of a clear, transparent and accountable study.

This decision can be interpreted as a partial victory for Perludem. Although the request to immediately overturn the parliamentary threshold was not granted, the Court recognized the need to review the figure to ensure that the electoral system remains proportional and fair. Perludem's success in bringing the parliamentary threshold issue to the Constitutional Court has had a significant impact. First, the issue of the parliamentary threshold has now become a wider public concern. The public has become more aware of the importance of the principle of proportionality in the electoral system and its impact on political representation in parliament. Second, the Constitutional Court's decision opens up space for future improvements. Lawmakers now have a responsibility to ensure that the setting of parliamentary thresholds is based on a transparent study and is based on the principles of electoral justice. Third, this success strengthens civil society's position in monitoring public policy. Perludem has proven that with a datadriven approach, comprehensive studies and the right advocacy strategy, civil society can play an effective role in influencing public policy.

Perludem has demonstrated its role as an effective guardian of democracy through a lawsuit against the Election Law related to the parliamentary threshold. Although the result was not fully in line with Perludem's proposed figure of one percent, the Constitutional Court's decision provides hope for future improvements. This success also confirms the important role of civil society organizations in ensuring that every public policy is formulated in a transparent, fair and in accordance with democratic principles.

CONCLUSION

From the discussion above, it is known that the Association for Elections and Democracy (Perludem) has a very significant role in encouraging electoral policy reform in Indonesia, especially regarding Article 414 of the Election Law regarding the parliamentary threshold. Perludem highlighted the injustice caused by the application of a high parliamentary threshold, where millions of legitimate voters are not represented in parliament, which has an impact on reducing the principle of democratic representation in the electoral system. The judicial review filed by Perludem to the Constitutional Court (MK) is a concrete form of advocacy carried out to fight for fairer and more inclusive elections. The result of this strategic lawsuit was the Constitutional Court's decision mandating a re-evaluation of the parliamentary threshold policy, especially for the 2029 elections and beyond.

The presence of Non-Governmental Organizations (NGOs) is very important and crucial in the life of a democratic country. The identification of NGOs as neutral institutions that favor civil society as well as the important and strategic role of NGOs significantly help strengthen and improve the quality of democracy in Indonesia. As part of civil society, NGOs function as watchdogs over public policies, advocates for relevant issues, and drivers of social change. In the context of democracy, NGOs play a role in ensuring that the government acts transparently, accountably and inclusively in policy

making. Perludem, as one of the NGOs focusing on election and democracy issues, focuses on the struggle to establish a fair and representative political system. Through various initiatives such as research, public education, policy advocacy, and strategic litigation, Perludem has become a key actor in guarding electoral policy reforms, including the judicial review of Article 414 of the Election Law on parliamentary thresholds. This step demonstrates their commitment to protecting the principle of democratic representation and encouraging inclusive political participation.

However, this strategic role is also faced with various challenges. Perludem, like many other NGOs, faces internal and external obstacles that affect the effectiveness of their advocacy. Internally, limited resources are a major challenge, especially in terms of funding and leadership regeneration. Dependence on foreign donors and lack of support from the government or domestic private sector often limit their room for maneuver. Competition with other independent organizations in recruiting experts is also a challenge. In addition, strategies to maximize available human resources still need to be strengthened to improve organizational effectiveness.

On the external side, the narrowing of civic space due to strong state influence is a significant obstacle. Civil society's access to policy-making tends to weaken, as reflected in the Indonesian Democracy Index (IDI) reports by the Central Statistics Agency (BPS) and The Economist Intelligence Unit (EIU). The decline in civil liberties and democratic political culture scores suggests that challenges for NGOs like Perludem stem not only from political resistance, but also from increasing state control over democratic space. In addition, public apathy towards democracy and electoral issues adds to Perludem's task of building public awareness and support for policy reform. Political resistance from actors who feel disadvantaged by policy reform is a major obstacle. Political elites often see changes such as the removal or adjustment of parliamentary thresholds as a threat to their dominance in the political system.

The analysis also reveals that Perludem's success is inseparable from a

collaborative strategy involving civil society, academia and the media. This collaboration allows Perludem's advocacy to have a wider reach and exert greater pressure on policy makers. An inclusive and evidence-based approach is key to the success of this advocacy. By presenting arguments supported by empirical data, Perludem influenced public discourse and built broad support for their cause.

This study confirms that the active participation of civil society, through organizations such as Perludem, is an important element to maintain the quality of democracy in Indonesia. As an organization that acts as a guardian of democracy, Perludem has proven that a consistent, data-driven and inclusive advocacy approach can have a significant impact. The judicial review case of Article 414 of the Election Law shows that civil society can play an effective role in influencing public policy if supported by a well-planned strategy and cross-sector collaboration. Moving forward, Perludem may face a tough task to continue to oversee the implementation of the Constitutional Court's decision and ensure that the promised policy changes are actually realized. It is important for the public to be more involved in the policy-making process as part of efforts to create a more inclusive and equitable democracy. Thus, this case is not only a reflection of Perludem's advocacy success, but also a reminder that the struggle for a better democracy requires cooperation between civil society, the government, and other elements in the democratic ecosystem.

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