The Effectiveness of the Presidential Threshold Concept in the Presidential and Vice-Presidential Election System in Indonesia

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ABSTRACT
This study aims to analyze how the effectiveness of the presidential threshold concept is implemented in the presidential and vice presidential elections in Indonesia. The theory used is the theory of democracy associated with political parties and elections. The method used in this study uses a normative approach by analyzing the law on the symptoms that exist in the election process, and using a qualitative approach by collecting existing data in literacy and literature. The results of the discussion show that the process of using the presidential threshold in the election results in pros and cons and conflicts in it because of various understandings and incompatibilities with the social life that exists in Indonesian society, which incidentally each region has its own culture. The character of the presidential threshold seems to be a planting bomb for every political party that carries each candidate because the strategies and steps that are determined can make a wrong position and have a negative impact on the related political parties.

Keywords: Presidential Threshold, Political Parties, and General Elections

INTRODUCTION
In general, some views in the General Election of the President and Vice President (heads of state and their representatives) can be called democratic if they are carried out using direct elections rather than appointments made directly by the MPR, this is because in elections directly involve the people to participate in the field directly. In this case that in the process of selecting the head of state and his deputy requires a real mandate and support as one of the direct interactions between voters and those who are elected. There are at least 2 (two) reasons for the general election to be held. First, the existence of direct elections can open up the figure of the head of state and his deputy who are sensitive to the conditions of the people. Second, maintain the stability of good governance. In the concept of this view, that is the reason...
that the creation of a democratic state government and building people's sovereignty based on Pancasila and the 1945 Constitution through the election of the head of state and his representatives by general election (Moh. Mahfud MD, 2011).

An important factor that must be understood, the concept of democracy that is present today comes from a place that has its own culture, has its own way of organizing that this concept was born with the situation they faced at that time. However, in the end, this classical concept of democracy became widespread and was used as a benchmark when measuring the quality of democracy in other countries with different cultures, different time frames and different government administrations. Furthermore, this classical concept of democracy is associated with human rights, and is placed as a nature that must exist in humans (Christiano, 2015; Dryzek, 2016). Although democracy has many meanings and is applied with many faces, there is a tendency that democracy refers to the equal rights that every people have to participate in decision-making (Epstein, 2011). There are various definitions of democracy, but how does the mechanism of democracy work? The relationship between elections and democracy, that elections are the embodiment of democracy has been put forward by many experts. Elections have an important role in democracy, elections are a form of democracy (Blais, Morin-Chassé, & Singh, 2017). Furthermore, it is said that democracy is a process of collecting decisions made by the people through the election mechanism (Issacharoff, 2008).

What about the implementation of democracy in Indonesia? The wave of democratization reached Indonesia when the five-star President General stepped down from his position after nearly 32 years in power. The euphoria of democratization echoes in every corner of life and is at the same time used as a panacea that is believed to be able to bring Indonesia out of the multi-crisis at the end of the 20th century. Since then, the new government regime has named itself as the reform regime, which seeks to significantly change the entire state life in Indonesia based on principles of democracy (Purwoko, 2010). Indonesia experienced difficult times, the monetary crisis, then the separatist movement in Aceh, the East Timor referendum, the Poso conflict, the loss of a president who was so strong, did not make Indonesia weak. Indonesia remains consistent with implementing government administration based on democratic principles and maintaining the nation’s dignity (statehood) intact.

The reform regime of the Indonesian government immediately manifested democracy by holding direct presidential elections which were usually conducted through representatives at the general assembly of the MPR. The People's Consultative Assembly (MPR) with a total of about 500 people will represent the people of Indonesia to determine who will become the President of the Republic of Indonesia in the next five years. This representative election mechanism was immediately revoked and replaced by a direct presidential election by the people, who got the most votes from the people, they (the presidential and vice presidential pairs) became the legitimate President of the Republic of Indonesia based on the popular vote. Another characteristic of this regime is that it implements direct elections for regional leadership elections as well as direct elections for DPRD legislative candidates. Pseudo Democracy is the practice of presidential elections, regional head elections and legislative member elections. (Sulistya, 2002).

The election system for heads of state and their representatives has a close relationship with the community which has an interdependence nature, this makes the connection and influence on the strength of the legitimacy of the pairs of candidates for head of state and their elected representatives. After the amendments to the 1945 Constitution, the electoral system for the head of state and his representatives actually gives freedom to the people in their rights as voters or those who are elected, then regarding whether or not they are legitimate winners in the election, a head of state and his deputy must get half the
votes of the total population nationally, as well as twenty percent of the vote in all provinces in Indonesia (Moh. Mahfud MD, 201).

The existence of regulation on the position of new political parties in carrying presidential candidates and their representatives is still very hotly debated. Because, in holding the 2019 election, the results of the 2014 election became a reference in the submission of the president and his deputy by political parties. This means that political parties that are taking part in the 2019 general election for the first time experience juridical problems because they are limited by binding rules based on the decision of the Constitutional Court. Of course, this problem will lead again to the original intent issue as stated in Article 6A paragraph (2) the phrase "election participant". The intended election participants are political parties that have been declared administratively valid and have factual verification by the KPU. If using legal logic before the decision of the Constitutional Court, after being declared valid as election participants, political parties participate in legislative elections to get seats in parliament. If it gets a seat in parliament, then the threshold obtained through the election will be used for capital to find a coalition or at least if it gets a national vote of at least 20%, the party will automatically nominate a presidential pair and their deputy. Meanwhile, in the 2019 election coalition will still be carried out by several parties that already have the basic capital, namely the threshold that has been obtained in the 2014 election. This provision certainly has implications for the position of new parties that do not yet have a threshold regarding their participation in the 2019 election event.

There is a view that in the presidential and vice-presidential election process it can be said to be good if the vote results are absolute from the majority of the people. The election process in 2014 reflected the denial of the empirical reality of democracy because it was not supported by a majority vote, it can be used as a reminder to the people who are not satisfied with the direct election system. However, theoretically direct elections are a consequence of the use of the presidential system. With this system, the absolute majority vote is not necessarily realized, but at least with this system it will be elected with the support of the absolute majority vote which describes the aspirations and will of the people (Abdul Latif, 2009). The implementation of elections in Indonesia uses the principles of LUBER-Direct, Free, Secret Public and JURDL-Honest and fair. These values are the embodiment of the universal classical principles of democracy. This principle is applied uniformly with uniform mechanisms and procedures for all regions in Indonesia. Elections are a benchmark for the quality of democracy in a country. Based on the description and explanation above, the author gives a problem about how the presidential threshold is for the presidential and vice presidential election from a juridical point of view and provides an overview of how new political parties as election participants propose the President and Vice President. So the author describes the analysis of the concept of Presidential Threshold in the General Election System for President and Vice President in Indonesia.

**RESEARCH METHOD**

The method used in this study uses a normative analysis approach by analyzing the law and relating it to the symptoms that exist in the election process. In addition, this research is qualitative in nature and the data collection process uses a literature study, namely by collecting data from books, journals, laws and other scientific works that are considered related to this research.
RESULTS AND DISCUSSION

DEMOCRACY

Antony Gidden argues that democracy makes the people the highest power holder. Because in Indonesia itself this is emphasized by the sentence sovereignty is in the hands of the people. Indonesia has certain concepts in democracy, although the concept of democracy comes from the west, these concepts include deliberation, which is closely embedded in the Indonesian nation. This is confirmed by the statement from Nurcholis Madjid that the application of universal democratic ideas reflects the level of development and conditions that exist in Indonesia (Galuh Kartiko, 2009).

Thus, in simple terms, democracy can be interpreted as the people's authority to govern. To form a democratic government, it is necessary to institutionalize substantial democratic values and become institutionalized values, because it clearly regulates how democratic values can function in a modern political system (Huda, 2018).

POLITICAL PARTY

In the territory of a country, the existence of politics greatly determines the law of a particular country because basically law is a political product. In this reform era, political parties with democracy can be said to be like two sides of a coin that cannot be separated and have a position and role in each system. Both have a strategic position in carrying out the role of government, not a few say that political parties have the most dominant role in determining democracy in a country. Therefore, the party becomes an important pillar in strengthening institutionalization in a government to run a democratic political system (Jimly Asshiddiqie, 2005).

The existence of political parties is one of the markers that a country can be said to be a (procedurally) democratic country. The higher the level of public awareness for politics, the political parties grow and develop so that with the existence of political parties, it is expected to be able to accommodate all the needs that exist in society. This is in accordance with the definition of a political party itself, which is an organized organization or group and its members have the same values, ideals and orientation towards a better direction, and to achieve political power by seizing political positions and by using constitutional means in carrying out each of its policies (Budiardjo, 2007).

Political parties are different from movements, a movement usually uses politics to make a change to an existing order in society, some even want to create a new social order. Political parties are also different from pressure groups or what are often referred to as interest groups. Interest groups only aim to obtain certain interests by influencing decisions, usually these groups are outside political parties and are in community groups (Huda, 2018).

GENERAL ELECTION

Elections can be interpreted in three different perspectives, namely the perspective of goals, the perspective of the level of state development, and the perspective of liberal democracy. The objective perspective is defined as the transfer of conflict from the community to political representatives so that community integration is more secure. The perspective of the level of state development is interpreted as a tool to justify the ruling regime. The perspective of liberal democracy is defined as an effort to convince and involve individuals in the political process. These three perspectives can be understood that elections are an important means in the life of a country that adheres to the principle of democracy which provides...
opportunities for citizens to participate in politics to elect representatives who will voice and channel their aspirations.

**ENTRY OF THRESHOLD**

Threshold regulation can be divided into 3 categories, including the electoral threshold for this category explaining the requirements for political parties to participate in the election, the requirements that must be passed are passing administrative verification and passing factual verification in the management of political parties. Then the parliamentary threshold category is an explanation of the requirements for political parties as election participants in obtaining seats in parliament by calculating the percentage using the arrangements regulated in the law. Finally, the presidential threshold category is an explanation of the requirements for political parties to participate in the election of the head of state and their representatives which is carried out by submitting each candidate by a single political party which is considered to have met the threshold requirements or has formed a coalition of political parties.

In Law no. 42 Th. 2008 concerning Presidential and Vice Presidential Elections, it has provided stipulations that the political parties or coalitions that have carried the presidential and vice presidential candidates are political parties or coalitions that have met the presidential threshold. This provision has been stated in more detail in Article Nine with the percentage, which is at least 20 percent of the seats acquired from the number of seats in the DPR or 25 percent of the national valid votes in the election for members of the DPR, with the time before the presidential election and his representatives are held.

Theoretical understanding of the party teaches about the role as a broker between the community and the government. In carrying out its role, the party not only functions to articulate and aggregate the interests of the community, but is also required to carry out the functions of political socialization and communication, recruitment, and policy making. However, the political reality of the New Order showed that these functions were almost entirely taken over by the government bureaucracy, so that the only function left for the party was the function of legitimacy. That is, the presence of the party is nothing more than justification for the current power. However, theoretically the input function in a political system consists of demand and support. (Syamsudin Haris, 1991)

**PRESIDENTIAL ELECTION DYNAMICS AND DEVELOPMENT IN INDONESIA**

The roll-out of the reform era has become a new breath for Indonesia's democratization process. The dim of healthy political competition during the New Order became a fundamental benchmark for renewing the legitimacy of democracy. Democracy must avoid two excesses, namely the spirit of inequality that conveys people to aristocracy or monarchy; and the spirit of extreme equality which brings people to despotic power because the difficulties that arise are only solved by conquest. One way to understand the process of developing politics is by identifying the internal process, both in the institutionalization of political activity, the legitimacy of the political system, observing political consensus and with the balance of power among government institutions and so on. (Arbi San it, 1985)

Each party has its own presidential electors in each state. They are generally people who are considered very loyal to their respective parties so that they are trusted as presidential voters in their respective states. Presidential elections in the states thus elect only the presidential electors and not the president. However, most states name the presidential candidates and some only mention the names of the presidential electors. (Bambang Cipto, 2007)
Strengthening the government system has also become an interesting discourse when formulating a government system that will be chosen as a political path in Indonesia. This condition was reflected in the discussion of the first amendment to the 1945 Constitution in the 1999 MPR Working Body. Almost 100% of the votes that developed at that time supported the presidential cabinet system as stated in the 1945 Constitution. There were no strong voices wanting to return to the parliamentary cabinet system. Even if there are critical thoughts, it is only limited to the statement that the 1945 Constitution does not actually adhere to a purely presidential cabinet system, but adheres to a quasi-presidential, because the president is still responsible to the parliament (Taufiqurohman Syahuri, 2011).

Things like that generally happen during parliamentary democracy. This happens because in the process of forming the executive it is not enough only with political parties that hold majority power. As a result, coalitions must be made at every cabinet formation. The government after the 1955 General Election was a coalition of a number of political parties. However, each party has the ability to carry out what is called political-black-mailing. In a sense, if a party’s wishes are not fulfilled, then it will easily withdraw support for the coalition and join the opposition for a vote of no confidence. As a result, long-lived cabinets are rare, and political stability is very low. That is the political reality that occurs in a parliamentary government. (Afan Gaffar, 2000).

APPLICATION OF PRESIDENTIAL THRESHOLD IN 2019 ELECTION

Quality general elections will be better able to implement the principle of popular sovereignty which is one of the main pillars in the main idea underlying the formation of the state. Thus, the quality of general elections is closely related to the political development of the nation as a whole. Political power should not be seen solely as a struggle between competing forces for control of state power, but that power should be based on high political ethics and a commitment to the interests of all the people.

Indonesia adheres to an extreme multiparty system so that it is very difficult for political parties to get votes for >20% support, so that coalitions are a political way to combine forces so that the ability of political parties in the election of heads of state and their representatives can run massively to collect significant votes. Second, initial support can be used as a bargaining position to move the party machine in carrying out political consolidation so that the interests of parties who propose candidates for head of state and their representatives run simultaneously to win the presidential election as a guarantee for political parties in order to maintain electability and acceptability in the five-year political stage.

This practice is common in election mechanisms that are not carried out simultaneously. Because the essence of the threshold in the presidential election is to bridge the interests of the president when he is elected later. As a result, the process of lobbying the president to the legislature will be easier and the president will feel more confident when running the wheels of government. Although this is considered a theoretical view, it does not always go hand in hand with the political dynamics that occur. The number of combinations of political parties in the government causes the president to be held hostage and constrained by the interests of the coalition parties that have won him so that the president does not stand alone, all the interests of the coalition parties are mixed in every presidential policy. That is why, the existence of a threshold is not an absolute guarantee for the running of the government system. The existence of elections that are not based on openness and maturity in giving opportunities to other parties causes government distortions and unhealthy administrative practices.

The Constitutional Court interprets that the presidential threshold is constitutional. The author concludes that it is natural that the presidential threshold is an open legal policy and its implementation is
carried out when the general election is not held simultaneously or in other words the votes obtained in the legislative elections are the benchmark for the requirements for nominating candidates for head of state and their representatives. However, the arguments from constitutional judges with dissenting opinions can be used as rationalizations for the 2019 election.

Actually, in this application, the Constitutional Court must take on the role of determining the urgency of the presidential threshold in the 2019 election. Because the authority of the legislators can only determine the percentage of the presidential threshold, not determining whether or not there is a presidential threshold. The Constitutional Court, which is the guardian of democracy, should stand as a mediator and have constitutional authority to make decisions or solutions to organize a healthy democracy. Regarding the presidential threshold, it is very sensitive to the interests of the parties participating in the general election, let alone talking about the hegemony of big parties.

The loss of the nomination for the head of state and their representatives is a consequence of the presidential threshold provisions which are accepted as simultaneous election organizers for the DPR, DPD and heads of state and their representatives, thus eliminating restrictions for political parties in submitting candidates in the 2019 election. In 2014, it is clear that this will be problematic again regarding the constitutionality of the 2019 presidential election. The legitimacy of the 2019 presidential election will be questioned, because how can the 2019 presidential election be faced but depend on the basis of support for the 2014 legislative election results. The impact will lead to the election of the president and vice president until the inauguration process.

So that this fact becomes a reference for political contests that will be conducted in the presidential and vice presidential elections in 2024. Because it is not impossible that the phenomenon of the presence of two proposed presidential and vice presidential candidates is a factor of division in society.

COMPATIBILITY OF APPLICATION OF THE PRESIDENTIAL THRESHOLD ELECTION 2019 AS A REFERENCE IN THE 2024 ELECTION

Regarding the 2024 presidential election, two opinions are currently developing. The first opinion states that every party participating in the election can nominate a presidential and vice-presidential candidate. Many think that the presidential threshold is no longer relevant to be applied to the 2024 presidential election. In particular, the simultaneous election is one of the goals, eliminating the threshold for presidential nominations, because of the simultaneous holding of the presidential and legislative elections. Indeed, the Constitutional Court's decision did not mention the abolition of the presidential threshold provision. But the implication is that it automatically knocks down the presidential threshold. According to Irman Putra Sidin, if the DPR and the government insist on including the presidential threshold, the chances of the Constitutional Court canceling it are quite high. Nevertheless, there is also a view that the presidential threshold provision can be applied to the 2024 presidential election. Among other opinions expressed by PDI-P politician, Ahmad Basarah, that the DPR and the government still have the right to determine the threshold for submitting presidential and vice-presidential candidates (presidential threshold) (M Alfan Alfian, 2016). The reason is that the decision of the Constitutional Court only combines the implementation of the legislative and presidential elections. In considering it, the decision of the Constitutional Court stated that the matter of the presidential threshold was left to the legislators. This means that the presidential threshold requirement in the 2024 presidential election can still be determined again by the DPR together with the government from the 2019 election results. However, the presidential threshold system in the presidential and vice presidential elections, if you reflect
on the social phenomena caused by the 2019 election, is of course not effective enough to be implemented in the 2024 election so that it requires a new system that can have a positive impact on both the government and the people of Indonesia.

This is the point of contact for the author to emphasize the power of major parties to maintain the presidential threshold, it is difficult to renegotiate. The high ego and do not want to be rivaled is an unhealthy political phenomenon, like a cat in a sack. It is undeniable why then until now the presidential threshold is still a frightening specter for small political parties and newcomer political parties. Even though in the 2014 election, no political party received >20% of the votes, but the indications of setting the threshold in the presidential election are still dominantly played by major parties. Because, the logical consequence that will occur if all political parties have the opportunity to nominate their respective candidates can be reciprocal, namely large political parties can become small and vice versa. This will happen if there is a submission by a large party against a candidate for head of state and his deputy and is able to be matched by a candidate from a small party or a new party. That is why the big parties are afraid if the faucet for participation in the presidential election is opened as wide as possible to all political parties (old political parties and new political parties).

CONCLUSION

The implementation of the presidential threshold in the 2019 election can be used as a benchmark in the election contest in Indonesia, especially the elections that will be held in 2024. Because it needs to be reviewed and redefinition regarding the threshold is needed to legitimize the election of the head of state and their representatives. This can be done for lawmakers by taking into account several reasons, as follows: The presidential threshold can only be applied when general elections are not held simultaneously. This means that the election of the president and vice president is carried out after the election of members of the DPR, DPD, and provincial/district/city DPRD. Meanwhile, the general election that will be faced is the 2024 election, where the general election will be held simultaneously.

If the threshold is understood as the validity of the election of the president and vice president, it should be emphasized again that the determinant of the legitimacy of the president and vice president is Article 6A: (3 and 4). Exactly there is pure legitimacy for the elected President and Vice President. Therefore, the threshold needs to be redefined. This means that the threshold is not due to the presidential threshold, but to the approach to which the elected President and Vice President can meet the requirements of a 20% win for each province as initial capital to strengthen the position of the elected president and vice president to move the wheels of government.

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