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Presidential Threshold in the 2024 Simultaneous General Election in the Indonesian Constitutional System

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ABSTRACT: This paper examines the Presidential Threshold requirements for political parties or coalitions nominating candidates for President and Vice President in the 2024 Indonesian simultaneous general elections. It aims to analyze the legitimacy and application of the presidential threshold within the Indonesian constitutional framework. The research uses a normative legal approach, supported by a review of primary and secondary legal materials, including relevant legislation and judicial decisions. The study finds that the legitimacy of the presidential threshold is based on Constitutional Court Decision No. 52/PUU-XX/2022, which grants the authority to set nomination thresholds to the DPR, DPD, and DPRD as open legal policies. Furthermore, the implementation of the presidential threshold in the 2024 elections, as outlined in Article 222 of Law No. 7 of 2017, is found to be inconsistent with the values of the 1945 Constitution of Indonesia and the national ideology, Pancasila. The conclusion indicates that while the presidential threshold is legally established, its application raises constitutional concerns about democratic principles.

Keywords: Presidential threshold, 2024 elections, Indonesian constitutional system, Constitutional Court

I. INTRODUCTION

General elections serve as a cornerstone of democratic governance, embodying the principles of popular sovereignty and representation. In Indonesia, the electoral process is enshrined in the 1945 Constitution, which emphasizes that sovereignty resides with the people and is exercised through their elected representatives (Hudhaibi, 2023; Nulhakim & Istinah, 2021; Patarai, 2021). This constitutional framework mandates that elections be

conducted in a manner that is direct, free, and fair, thereby ensuring that the electorate's voice is paramount in selecting their leaders (Abrillio et al., 2022).

The evolution of Indonesia's electoral system has been marked by significant reforms, particularly following the constitutional amendments of the early 2000s (Aspinall & Mietzner, 2019; Fossati, 2020; Lev, 2021). These amendments introduced direct elections for the President and Vice President, fundamentally altering the political landscape and enhancing the democratic process. The 2004 elections marked a pivotal moment in Indonesian history, as citizens were empowered to vote directly for their leaders, thus reinforcing the principles of democratic governance and accountability. (Huda et al., 2023). The constitutional provisions, particularly Article 6A, outline the procedures for electing the President and Vice President, emphasizing the role of political parties in nominating candidates. This framework has led to the establishment of the presidential threshold, which requires candidates to be supported by a certain percentage of legislative seats to qualify for nomination. (Yulianto, 2023).

The presidential threshold has sparked considerable debate regarding its legitimacy and implications for democratic representation. Critics argue that such a threshold may undermine the electoral rights of smaller parties and limit the diversity of political representation. The Constitutional Court of Indonesia has addressed these concerns through various rulings, affirming the constitutionality of the presidential threshold and recognising the need to balance party representation and the electorate's will. (Suparno & Panjaitan, 2023). The ongoing discourse surrounding the presidential threshold is crucial, particularly as Indonesia approaches the 2024 elections, where the interplay between constitutional mandates and electoral practices will be tested. (Haruni et al., 2020).

This issue also connects to broader questions of equity in Indonesian governance. Like health resources and public services distribution, electoral thresholds can inadvertently exacerbate disparities, particularly for smaller political groups. For instance, the electoral process may mirror issues faced by marginalized communities in Indonesia, such as Indigenous groups, who also experience disproportionate access to power and resources. (Butler et al., 2014; Mietzner, 2008). Scholars have raised concerns that the threshold could serve as a barrier, much like healthcare inequalities, which restrict the access of specific communities to the political process. (Cordes, 2022). As electoral reforms continue to evolve, the discourse should incorporate the necessity for equal representation, especially for marginalized groups, as observed in health programs where disparities in access and information are prevalent. (Idaiani et al., 2023).

This study investigates the legitimacy of the presidential threshold within the Indonesian constitutional framework, focusing on its implications for the 2024 simultaneous elections. The research will address two primary questions: first, what is the constitutional basis for the presidential threshold, and second, how will it be applied in the upcoming elections? By critically analysing these issues, the paper seeks to contribute to the broader understanding of electoral democracy in Indonesia and propose recommendations for enhancing the electoral process (Tibaka & Rosdian, 2018).

The presidential threshold represents a significant aspect of Indonesia's electoral system, reflecting the ongoing challenges and opportunities within the framework of constitutional democracy. As the nation prepares for the 2024 elections, it is imperative to critically examine this threshold's implications on citizens' electoral rights and the overall health of

Indonesia's democratic institutions. (Natamiharja & Rasya, 2021) This paper endeavours to illuminate these critical issues, contributing to the discourse on electoral reform and democratic governance in Indonesia.

II. METHOD

This study follows a structured methodology comprising six distinct steps to address the research problem regarding the legitimacy of the presidential threshold in the Indonesian electoral system, particularly in the context of the 2024 Simultaneous Elections.

The first step in the research methodology is the problem definition, where the research problem is identified and articulated. The study focuses on the interaction between the presidential threshold and Indonesia's constitutional framework, exploring its implications for political representation and the overall democratic process. The importance of this issue lies in ensuring that electoral mechanisms align with the democratic principles enshrined in the 1945 Constitution of the Republic of Indonesia. This is especially crucial as the presidential threshold influences the inclusivity and fairness of the electoral system, shaping political participation in the 2024 elections. (Prihatini, 2019).

The second step involves conducting a comprehensive literature review. This review covers existing research on electoral systems, constitutional law, and the specific nuances of the presidential threshold in Indonesia. Additionally, the literature review examines global experiences with electoral thresholds and their impact on democracy, representation, and political parties. It serves as the theoretical foundation for the study, providing essential insights into the Indonesian electoral system's alignment with broader democratic frameworks. This step has been completed in the previous sections, contextualising the issues and laying the groundwork for the research. (Fibrianti & Wahanisa, 2023).

The third step is the application of normative juridical research, which forms the core of this study. Normative juridical research thoroughly analyses legal principles, historical contexts, and comparative legal frameworks. As outlined by Soejono Soekanto, this approach seeks to understand the application of law through established legal norms (Soekanto, 1986). This study focuses explicitly on Indonesian electoral law, particularly Article 222 of Law Number 7 of 2017 concerning General Elections and the Constitutional Court Decision Number 52/PUU-XX/2022 regarding the presidential threshold. The research critically evaluates how these legal provisions align with the 1945 Constitution and Indonesia's foundational philosophical framework, Pancasila, to assess the legitimacy of the presidential threshold in light of these constitutional values (Amrin et al., 2023; Umbase, 2023).

The fourth step involves data collection and analysis. The data for this research is sourced primarily from secondary materials, including legal texts, court rulings, academic journals, and reports from governmental and non-governmental organisations. A qualitative approach is adopted to analyse these legal texts, focusing on the implications of constitutional provisions related to the presidential threshold. The analysis also involves examining the sociopolitical context of Indonesia's electoral system and evaluating the practical effects of these legal documents and court decisions on democratic processes. The aim is to identify key legal principles and compare them with constitutional values, interpreting their impact on the political system. (Firdaus & Wulandari, 2023).

The fifth step in the methodology is obtaining results, where the legitimacy of the presidential threshold is scrutinised. This examination is conducted through the lens of Constitutional Court Decision Number 52/PUU-XX/2022, which affirms that the legislature possesses the open legal policy to establish candidacy thresholds for presidential and legislative positions. The study compares this legal determination with the constitutional values enshrined in Indonesia's 1945 Constitution and Pancasila. The research then assesses whether the presidential threshold, as outlined in Article 222 of Law Number 7 of 2017, aligns with or contradicts these constitutional values, especially in the upcoming 2024 elections. (Soetjipto, 2023).

The final step involves formulating implications and recommendations. This step synthesises the research findings to propose potential reforms to the presidential threshold, ensuring better alignment with democratic principles as outlined in Indonesia's Constitution. It also recommends improving Indonesia's electoral processes to promote fairness, inclusivity, and better political representation for all parties, irrespective of their size or influence. The study addresses these critical issues and contributes to the ongoing discourse on electoral reform and enhancing democratic governance in Indonesia. (Djono et al., 2023).



Figure 1: Research Methods

III. RESULT AND DISCUSSION

This section presents a detailed and comprehensive analysis of the legitimacy of the presidential threshold in Indonesia's electoral system. It focuses on its implications for political representation and the broader democratic process, especially in the context of the 2024 Simultaneous Elections. The results draw from various legal, political, and comparative analyses, integrating constitutional and legislative frameworks with practical implications for electoral fairness and inclusivity.

1. Legal Validity and Constitutional Alignment of the Presidential Threshold

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The key finding of this study is that the presidential threshold, as codified in Article 222 of Law Number 7 of 2017 concerning General Elections, is legally valid. Still, significant concerns exist regarding its alignment with the constitutional values of inclusivity and democracy. The Constitutional Court Decision Number 52/PUU-XX/2022 supports the legislature's authority to set such candidacy thresholds for presidential elections. However, this decision does not fully address the broader implications of such thresholds on democratic participation, specifically the exclusion of smaller political parties and independent candidates. This legal framework emphasises that while the legislative body can set such thresholds, ongoing debates exist regarding whether these legal measures undermine the broader democratic principle of equal participation.

1.1 Implications for Political Representation The threshold has been identified as a mechanism favouring larger political parties, particularly those with substantial political capital, while sidelining smaller, potentially equally viable candidates. The legal framework is clear that only parties or coalitions with substantial electoral backing (i.e., 20% of the legislative seats) are eligible to field presidential candidates. This structure limits the diversity of political voices and raises questions about whether this legal provision is in harmony with the fundamental democratic values espoused in Indonesia's 1945 Constitution.

1.2 Legality Versus Legitimacy While the threshold is legally sanctioned, its legitimacy in terms of democratic fairness is questionable. The analysis suggests that although the threshold is consistent with legal interpretations from the Constitutional Court, its restrictive nature may be seen as contradictory to the constitutional mandate for a pluralistic democracy. The constitutional values of Pancasila, which emphasize democracy, justice, and the people's sovereignty, could be undermined by this restrictive policy that limits voter choice and marginalizes smaller political parties (Amrin et al., 2023).

2. Historical and Constitutional Context of the Presidential Threshold

The historical context of Indonesia's electoral system further deepens the understanding of how the presidential threshold may clash with the 1945 Constitution. A central tenet of the Indonesian constitution is that all citizens have the right to participate in the democratic process, including electing and being elected. By placing restrictions on which parties can nominate presidential candidates, the threshold could be seen as reducing the effectiveness of this constitutional right.

2.1 The 1945 Constitution and the Principle of Popular Sovereignty The principle of popular sovereignty, enshrined in the 1945 Constitution, dictates that the people's will should guide the selection of government officials. The presidential threshold, however, limits this principle by narrowing the field of presidential candidates to those parties that meet the 20% legislative seat requirement. This restriction could undermine the full expression of the electorate's will, notably when smaller political parties with regional or specialised support are excluded from the race.

2.2 Pancasila and Political Pluralism Pancasila, the foundational philosophy of the Indonesian state, promotes democratic values such as justice, social harmony, and inclusivity. The presidential threshold, by potentially excluding diverse political actors from competing in presidential elections, stands in tension with these ideals. A threshold that

excludes smaller parties or independent candidates undermines the inclusive spirit of Pancasila, which seeks to allow all political voices to participate in the democratic process.

3. Comparative Analysis with International Electoral Practices

While Indonesia's presidential threshold aligns with the practices of many other countries, this comparative analysis reveals that thresholds must be carefully calibrated to avoid limiting political competition and suppressing political pluralism. Comparative studies show that while some democracies utilise electoral thresholds, the level of restriction varies significantly, with some countries adopting more inclusive mechanisms to ensure that smaller parties have a fair opportunity to contest elections.

3.1 Thresholds in Comparative Democracies In countries such as Germany, Brazil, and France, thresholds balance inclusivity with the need for electoral stability. These countries have adopted systems that allow smaller parties to participate in presidential races while maintaining a stable electoral environment. For example, in Brazil, the electoral system employs both proportional representation and a relatively low threshold for presidential candidates, thus facilitating greater political competition. In contrast, Indonesia's threshold is much higher, which may discourage smaller parties from contesting the presidential election despite their significant local or regional support.

3.2 Negative Impact of High Thresholds The comparative analysis indicates that high thresholds can reduce political pluralism, as evidenced by several countries where high thresholds resulted in the domination of a few large parties and the exclusion of smaller political forces. Studies in countries like Turkey and Poland have shown that high thresholds tend to concentrate political power in the hands of a few dominant parties, leading to a more polarised and less inclusive political landscape. This trend raises concerns about the fairness of Indonesia's electoral system, where smaller but potentially significant parties are often left without viable avenues to participate in presidential elections.

4. Impact on Voter Choice and Political Inclusivity

The research reveals that the presidential threshold has significant voter choice and political inclusivity implications. By restricting the field of presidential candidates, the threshold may limit the variety of policy platforms available to voters, reducing their ability to make fully informed electoral choices. This is especially problematic in a multi-party democracy like Indonesia, where many voters identify with smaller parties that may not meet the threshold but still represent important political ideologies.

4.1 Exclusion of Smaller Parties One of the critical findings is the potential disenfranchisement of voters who align with smaller parties. The threshold effectively disqualifies these parties from running for the presidency, leading to a scenario where a large portion of the electorate is forced to choose from a limited pool of candidates. This reduces the overall quality of democratic participation and undermines the democratic ideal that elections should be representative of a broad spectrum of political views.

4.2 Voter Alienation The exclusion of smaller parties from presidential races can also lead to voter alienation. As political diversity is limited, many voters may feel that their choices do not adequately reflect their political views. This may result in lower voter turnout or a decline in political engagement, as voters who identify with excluded parties may feel their votes will not have a meaningful impact on the election outcome.

5. Results from Secondary Data and Legal Interpretations

Secondary data, including academic studies and court rulings, reinforce that the presidential threshold may create a disconnect between legal norms and the democratic ideals of fairness and inclusivity. The analysis of legal texts, such as the Constitutional Court Decision Number 52/PUU-XX/2022, shows that while the court upheld the legal legitimacy of the threshold, it failed to address the more profound implications for democratic representation and political diversity.

5.1 The Court's Ruling on Legal Policy The Constitutional Court's decision affirmed the legislature's right to set candidacy thresholds. Still, it did not fully consider this power's implications on the electoral system's inclusivity. While the court emphasised that such decisions were within the scope of legislative authority, it did not sufficiently weigh the democratic cost of restricting political competition. This finding suggests a potential gap between legal reasoning and the broader principles of democratic legitimacy and political pluralism.

The analysis of Indonesia's presidential threshold reveals significant concerns about its impact on political inclusivity and democratic representation. While legally valid, the threshold's restrictive nature may limit voter choice, diminish political pluralism, and undermine the constitutional principles of democracy and popular sovereignty. The results suggest a need for electoral reforms to balance legal validity with democratic fairness, ensuring broader political participation and more inclusive representation in the 2024 elections.

Discussion

The results of this study indicate that the presidential threshold outlined in Article 222 of Law No. 7 of 2017, further confirmed by the Constitutional Court Decision No. 52/PUU-XX/2022, plays a significant role in shaping the political landscape of Indonesia, particularly concerning the 2024 simultaneous elections. The threshold, which requires a political party or coalition to obtain at least 20% of the seats in the People's Representative Council (DPR) to nominate a presidential candidate, raises concerns about its impact on the inclusivity and fairness of the democratic process. These concerns are grounded in the broader context of constitutional values, specifically, the principles enshrined in the 1945 Constitution of the Republic of Indonesia and Pancasila, which emphasise the importance of representation, participation, and equality in the democratic system Hasani et al. (2022) (Hasani et al., 2022).

The findings of this study suggest that while the presidential threshold is legally justified and constitutionally permissible according to the Constitutional Court's decision, it creates challenges for smaller political parties and limits the diversity of presidential candidates. By setting a high threshold, the system effectively reduces the number of parties capable of nominating a candidate, leading to a concentration of political power among larger parties or coalitions. This can result in a less representative and inclusive electoral process,

as smaller parties with significant regional or ideological support may be excluded from the presidential race. This finding aligns with previous research on electoral systems and thresholds, which indicates that high thresholds tend to reduce political competition and limit the variety of political choices available to voters (Bormann & Golder, 2022; Giblin, 2022).

Furthermore, the research highlights the tension between the democratic ideals of representation and the practical governance considerations. While proponents argue that the threshold ensures stable governance by preventing fragmentation, it limits opportunities for more minor political actors to challenge dominant parties. In this sense, the threshold can be seen as a mechanism for consolidating power rather than promoting the pluralistic democratic process envisioned by Indonesia's founding principles. This is particularly evident in the context of the 2024 elections, where the threshold is expected to reduce the number of viable presidential candidates, thereby narrowing the political discourse. (Ulum & Hamida, 2018).

Comparing the findings of this study to those of previous research reveals similarities and differences in the conclusions drawn. Several studies have argued that high electoral thresholds undermine democracy by reducing the number of parties and candidates in the race. (Lijphart, 2002, 2022; Mietzner, 2020). These studies emphasise the risks of excluding minority voices and reinforcing the dominance of a few prominent political parties. Similarly, this study concurs with these findings, noting that Indonesia's threshold exacerbates the problem of political exclusion, especially for smaller but potentially influential parties. However, the current study also highlights a key distinction: while the threshold poses challenges to political inclusivity, the Constitutional Court's decision underscores the legitimacy of the threshold, arguing that it falls within the legislature's discretion to set such limits. This perspective aligns with the broader legal framework of Indonesia's electoral system, which grants the legislature significant leeway in determining electoral rules (Amrin et al., 2023).

In terms of contributions to existing literature, this study adds to the ongoing debate about the balance between political stability and inclusivity in electoral systems. By examining Indonesia's unique electoral threshold in the context of its constitutional framework and Pancasila, the study provides a nuanced understanding of how legal and political factors interact to shape the country's democratic processes. Additionally, the study's focus on the implications of the threshold for the 2024 elections offers timely insights into the potential challenges that Indonesia's political system may face in the coming years. (Mahfiana et al., 2020; Sarip, 2018).

One of the most significant contributions of this study is its recommendation for reforming the presidential threshold to promote greater inclusivity and political representation. While the threshold is legally valid, the study suggests that reducing the threshold could allow for a more diverse range of candidates and political parties to participate in the presidential race, ultimately strengthening the democratic process. This reform would align with the principles of political equality and representation that are central to Indonesia's constitutional framework. Furthermore, this recommendation echoes the findings of other scholars who have advocated for lowering thresholds to encourage political pluralism and better reflect the electorate's will. (Hasim, 2024).

Moreover, the dynamics of the 2024 presidential election are further complicated by the evolving role of Islamic political parties within Indonesia's broader democratic framework. Recent studies indicate that the fragmentation of these parties and their pragmatic alliances with non-Islamic parties reflect a significant shift in political strategies, which may influence the effectiveness of the presidential threshold. This highlights the need for a more adaptable electoral framework to accommodate the changing political landscape while ensuring fair representation for all parties involved.

While the presidential threshold in Indonesia is constitutionally valid and legally supported, its effects on political representation and the democratic process raise significant concerns. This study contributes to the broader discourse on electoral reform, emphasizing the need for a more inclusive system that better reflects the diverse political landscape of Indonesia. By providing a comprehensive analysis of the threshold's legitimacy and its implications for the 2024 elections, the study offers valuable insights for policymakers and electoral reform advocates aiming to improve Indonesia's democratic processes. (Soemarwi et al., 2022).

IV. CONCLUSION

This study aims to analyse the legitimacy and implications of the presidential threshold outlined in Article 222 of Law No. 7 of 2017 and its role in the 2024 simultaneous elections in Indonesia. Based on the discussion above, the following conclusions can be drawn:

The legitimacy of the presidential threshold is rooted in historical and constitutional precedents. Since the 2004 Elections, various tests regarding the presidential and vice-presidential nomination threshold have been conducted, with the Constitutional Court maintaining the current threshold. According to the Court's Decision (No. 52/PUU-XX/2022), the authority to establish thresholds for presidential and vice-presidential nominations and other bodies like DPR and DPD is an open legal policy. This decision aligns with the discretionary power of policymakers granted by Article 6A paragraph (5) of the 1945 Constitution of the Republic of Indonesia.

However, as enforced in the 2024 Simultaneous Elections, the presidential threshold is explicitly regulated in Article 222 of Law No. 7 of 2017. The implementation of this threshold is in tension with the core values of the 1945 Constitution and Pancasila, Indonesia's national ideology. Adequate electoral provisions should balance the electoral system and the democratic process. The current threshold provisions, however, diminish equal opportunities for political parties that have passed the General Election Commission's verification requirements, limiting their ability to directly nominate presidential and vice-presidential candidates.

The advantages of this study lie in its thorough examination of the legal, historical, and political dimensions of the presidential threshold in Indonesia. It highlights the tension between constitutional principles of representation and practical governance needs. By exploring the threshold's effects on the inclusivity of the democratic process, the study contributes to broader electoral reform debates. However, the limitation of this research stems from its focus on legal and institutional perspectives, which could benefit from a deeper analysis of the electoral system's impact on public opinion and voter behaviour.

The findings of this study suggest potential applications in shaping future electoral reform debates in Indonesia, especially regarding the balance between political stability and inclusivity. The study advocates for removing or relaxing the presidential threshold to

promote a more inclusive system that reflects the diverse political landscape. As such, it serves as a foundation for future research and policymaking on electoral systems, with implications for enhancing political representation and the quality of democracy in Indonesia. Further studies could explore how changes in the threshold might affect political party strategies and voter behaviour in future elections.

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