

Dynamics of the process of changing the presidential threshold policy in law number 7 of 2017 concerning general elections

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Abstract

This research seeks to analyze the dynamics involved in the process of amending the presidential threshold policy within Law Number 7 of 2017 concerning General Elections. The study employs a normative juridical methodology, utilizing both statutory and conceptual approaches. The findings of this research include first, the external dynamics of parliament in the process of changing the presidential threshold policy in Law 7/2017 due to the interests of certain groups. Second, the internal dynamics of parliament in the process of changing the presidential threshold policy in Law 7/2017 are caused by different political attitudes between political parties that affect political attitudes.

Keywords

Policy change, Presidential threshold, General elections, Internal parliamentary dynamics, External parliamentary dynamics

Introduction

The presidential threshold, which sets the minimum requirements for nominating presidential and vice-presidential candidates, has been implemented since the 2004 presidential election [1]. This policy was designed to restrict the number of political parties or party coalitions eligible to nominate candidates for the presidency and vice presidency [2]. Initially, this threshold was established in Article 6 of Law Number 23 of 2003 concerning the Presidential and Vice-Presidential Elections (Law 23/2003), which stipulated a minimum of 15% of seats in the House of Representatives or 20% of the total valid national votes. Subsequently, Article 9 of Law Number 42 of 2008 revised the threshold, increasing it to 20% of House seats or 25% of the valid national vote.

A significant shift occurred following Constitutional Court Decision Number 14/PUU-XI/2013, which mandated that legislative and presidential elections be conducted simultaneously. This change was reflected in Article 222 of Law Number 7 of 2017 on

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General Elections (Law 7/2017), which maintains that only political parties or coalitions securing at least 20% of parliamentary seats or 25% of the national valid votes in the prior legislative election can nominate presidential candidates. This provision remains unchanged under Law Number 7 of 2023, which formally enacted Government Regulation in Lieu of Law (Perppu) Number 1 of 2022 [3].

Discussions surrounding the presidential threshold frequently surface in public discourse, especially in the lead-up to national elections. Certain groups argue that the threshold serves as a crucial mechanism for reinforcing the presidential system. From this perspective, it is believed that the threshold enhances the legitimacy of elected candidates by ensuring they are backed by major political parties or coalitions, thus securing a more stable position within the constitutional framework and minimizing vulnerability to parliamentary political fluctuations. In addition, the presidential threshold is seen as a tool to promote more effective governance. The absence of such a requirement could allow candidate pairs supported only by minor parties or weak coalitions to run, potentially leading to a disproportionate balance of power between the executive and legislative branches. This imbalance may hinder the government's ability to implement its policy agenda due to insufficient political backing in the House of Representatives. The threshold is also viewed as a means to streamline the overly fragmented and inefficient multiparty system [4].

On the other hand, there is also rejection from groups who view that the threshold provision is a barrier to the emergence of potential alternative candidates, especially from non-party circles. These restrictions are considered to narrow the space for political participation and limit citizens' constitutional right to vote. With the reduction in the number of candidates in the election, voter options are increasingly limited, which can indirectly weaken the quality of democracy. In addition, this system is also considered to be detrimental to small parties because they lose the opportunity to put forward their own candidates and only become a complement to the coalition determined by the big parties, even though each party has a representative function to nominate its best cadres at the national level [5].

Based on the background as described above, the author is interested in conducting research on the dynamics both inside and outside parliament in the process of changing the presidential threshold policy as stated in the provisions of Article 222 of Law 7/2017.

Method

This study adopts a normative juridical method, relying primarily on secondary data obtained from literature sources. These sources consist of academic books, official records, statutory regulations, prior scholarly work, and other relevant documentation. In addition, the research incorporates primary, secondary, and tertiary legal materials. The collected data are then processed and interpreted to address the identified legal issues. Therefore, this research does not rely solely on positive legal norms but also considers real-world phenomena that influence legal developments.

Results and Discussion

External dynamics of parliament in the process of changing the presidential threshold policy

Provisions regarding the holding of elections are contained in Article 22E paragraph (6) of the 1945 Constitution of the Republic of Indonesia. However, due to its abstract nature, this Constitution provides a fairly wide scope for interpretation of what matters can be further regulated in the law. In this context, the presidential threshold is perceived as a legal instrument aimed at streamlining the configuration of political parties within the parliament. However, this policy is also questioned because it is considered to have possibility that it infringes upon citizens' constitutional rights as protected under Article 28D paragraph (3) of the 1945 Constitution, namely the right to equal opportunities in government. However, the 1945 Constitution allows such restrictions as long as they are delegative regulated by law. Since its initial enactment under Law Number 23 of 2003, the presidential threshold has experienced several revisions. In the 2004 presidential election, the threshold was established at 15% of parliamentary seats or 20% of the total valid national vote. This requirement was later amended by Law Number 42 of 2008, which raised the threshold to 20% of seats or 25% of valid votes, a standard that remained in effect through the 2014 election. A pivotal change occurred following Constitutional Court Decision Number 14/PUU-XI/2013, which mandated the synchronization of legislative and presidential elections. This ruling significantly influenced the application of the threshold as codified in Law Number 7 of 2017, which states that only political parties or coalitions that secured a minimum of 20% of seats in the House of Representatives or 25% of the valid votes in the preceding legislative election are eligible to nominate presidential candidates. This requirement has been preserved in Law Number 7 of 2023 [6].

The establishment of Law No. 7 of 2017 triggered a debate among civil society. This difference of views is generally due to the attraction of interests between certain groups outside the parliament. From the perspective of political interests' theory, this distinction shows how non-governmental actors seek to influence the legislative process to accommodate their own political goals. The intervention reflects the complex political dynamics in the formulation of election policies, especially regarding the threshold for presidential candidacy. Related to the external dynamics of parliament in the process of changing the Presidential Threshold policy in Law 7/2017 is described in the Table 1.

Table 1. External dynamics of parliament in the policy change presidential threshold in Law 7/2017

No	Cons	Pro
1.	Parluden (Association of Elections and Democracy) They consider that the imposition of a presidential threshold candidacy threshold is no longer relevant in the simultaneous election system. According to them, all	The Indonesian Republik Institute (IPI) The Indonesian Public Institute (IPI) states that without a threshold, the system will become too liberal and risk political fragmentation because each party can put forward its own candidate. They argue that these restrictions

No	Cons	Pro
	political parties involved in the election must be granted equal entitlement to put forward a presidential candidate, whether independently or by forming coalitions. Perludem argues that the application of the threshold hinders the principle of political equality guaranteed by the constitution and is more appropriately applied to the non-simultaneous electoral system as it applied before 2014. In addition, they highlighted that the objective should be to reinforce the presidential system and streamline the structure of political parties, then the more appropriate instrument to use is the parliamentary threshold and reform of the electoral system, not the presidential nomination limit [7].	create efficiency and stability in the government [8].
2.	Pro-Democracy Activist The magnitude of the presidential threshold influences the minimum number of candidate pairs eligible to participate in the election. Consequently, the electorate is presented with fewer and less varied choices. This situation also fosters pronounced political polarization within society, exemplified by the 2019 Presidential Election, which was primarily contested between two major factions—the Jokowi-Ma'ruf Amin duo and the Prabowo Subianto-Sandiaga Uno pair—ultimately leading to notable social tensions.	Center for Election and Political Party Studies FISIP University of Indonesia The application of the presidential threshold is regarded as a strategic measure to more systematically represent the interests of the populace, especially considering the numerous political parties present in Indonesia, it is necessary to filter through groupings based on ideological orientation and support bases, such as nationalist parties, religion-based parties, both fundamentalist and moderate, and parties representing certain regions. Thus, the number of candidates in the presidential election can be minimized to an ideal number without eliminating the element of political representation [9].
3.	Political Expert: Siti Zuhro The provisions regarding the threshold for presidential candidacy are considered to have exacerbated political polarization and created social tensions that have the potential to disrupt the unity of the nation. This mechanism is also considered to weaken the representation function, as it only allows the emergence of candidates from certain groups. In Siti Zuhro's opinion, all that is needed should be a threshold to enter parliament, while presidential candidacy does not need to be limited by such conditions [10].	Legal Division of Central Kalimantan Province The provisions regarding the presidential threshold should still refer to the provisions of the law. This is important considering that Indonesia's political system adheres to a multiparty and presidential model, which requires balance for the government to run effectively. In addition, the principle of checks and balances must also be maintained. Therefore, although the threshold number could be lowered, the determination of the ideal amount requires a comprehensive and data-driven study [11].
4.	Muhammadiyah Central Board Muhammadiyah expressed its rejection of the implementation of the presidential threshold, because it was considered to limit the constitutional right of citizens to run for president. In their view, the provision is contrary to the principle of equality in political participation, which is supposed to guarantee every individual an equal opportunity to become a national leader [12].	Political Expert Dr. rer.pol. Mada Sukamajati, S.IP., MPP. The topic of the presidential nomination threshold pertains to ultimately the full authority of the House of Representatives to decide. This means that the debate on this matter is highly dependent on the political dynamics between factions in parliament. As long as there is no one dominant political force, it is likely that the discourse on changing the threshold will only develop in the public space

No	Cons	Pro
		without producing concrete changes in regulations. The proposal to lower the threshold to zero percent also poses its own challenges, especially from a technical perspective, because it has the potential to open up opportunities for anyone to run for president. Although participation is an important element in democracy, wise management is still needed so as not to disrupt the stability and effectiveness of the democratization process itself. Democracy does not mean providing unlimited space for everyone to engage without clear rules or procedures [13].

Source: Self-produced by the author

Internal dynamics of parliament in the process of changing the presidential threshold policy

From a constitutional perspective, the nomination process for the president and vice president is governed by Article 6A of the 1945 Constitution of the Republic of Indonesia, which mandates that candidate pairs must be proposed by a political party or a coalition of parties prior to the election. Additionally, the presidential threshold requirement is outlined in Article 222 of Law No. 7 of 2017. This provision specifies that only political parties or coalitions that secured at least 20% of the seats in the House of Representatives or 25% of the valid national votes in the preceding legislative election are eligible to nominate a pair of presidential and vice-presidential candidates.

In the Indonesian political system, the formation of laws is greatly influenced by the power of political parties in parliament. This makes the policies produced, including about elections, often reflect the interests of dominant political groups. In the 2014 election, there were 15 participating parties, but only 10 passed the parliamentary threshold (Table 2). The primary rationale for reinforcing the presidential threshold is to establish a stable government, as previous administrations encountered challenges in policy implementation due to insufficient political backing in the House of Representatives (DPR).

Nonetheless, this provision sparked controversy during the legislative process of Law No. 7 of 2017. The Constitutional Court Decision No. 14/PUU-XI/2013, which mandates that presidential and legislative elections be conducted concurrently, raises questions about the continued relevance of the threshold, because in a simultaneous system, there are no previous legislative results that can be used as the basis for candidacy requirements. However, the threshold provisions were still included in the law and triggered walkouts from four factions during ratification [14].

This tension reflects the difference in interests between the big parties that want to maintain the threshold – because it benefits their position – and the smaller parties that want to abolish the requirement in order to expand their chances of candidacy.

According to the theory of political attitudes, political parties that perceive themselves as advantaged by certain regulations are more likely to endorse them, while those who feel disadvantaged will refuse. This debate is not only technical, but also shows the political dynamics and power struggles in democratic systems [15].

Table 2. National party participants in the 2014 Election

Party	Vote Count	Number of Seats
Nasional Demokrat (Nasdem)	8.402.812 (6,72%)	35
Partai kebangkitan Bangsa (PKB)	11.298.957 (9,04%)	47
Partai Keadilan Sejahtera (PKS)	8.480.204 (6,79%)	40
Partai Demokrasi Indonesia Perjuangan (PDIP)	23.681.471 (18,95%)	109
Golongan Karya (Golkar)	18,432,312 (4.75%)	91
Gerakan Indonesia Raya (Gerindra)	14,760,371 (11.81%)	73
Demokat	12,728,913 (10.9%)	61
Partai Amanat Nasional (PAN)	9,481,621 (7.59%)	49
Partai Pembangunan Persatuan (PPP)	8,157,488 (6.53%)	39
Hati Nurani Rakyat (Hanura)	6,579,498 (5.26%)	16
Partai Bulan Bintang (PBB)	1,825,750 (1.46%)	0
Partai Keadilan dan Persatuan Indonesia	1,433,094 (0.91%)	0

Source: Self-produced by the author

Conclusion

The external dynamics of parliament in the change in the presidential threshold policy in Law No. 7 of 2017 show the emergence of a fairly sharp public debate. This difference of views cannot be separated from the existence of interest groups outside parliament that compete with each other to influence the direction of policy. This phenomenon is in line with the theory of political interests, which explains that the aspirations of certain groups can influence the legislative process through strong relationships with formal political structures.

The internal dynamics of the parliament are characterized by differences in political attitudes between parties towards the sustainability of the presidential threshold provisions. The big parties tend to support this arrangement because it strengthens their position, while the smaller parties prefer the removal of the threshold in order to have a wider space in nominating candidates. This reflects the theory of political attitudes, in which the political position and interests of parties determine the extent to which they support or reject a policy being discussed.

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