



Presidential Threshold in Indonesia's 2024 Elections: A Constitutional Analysis

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ABSTRACT

This paper examines the regulation and implementation of the presidential threshold for political parties or coalitions nominating candidates for President and Vice President in Indonesia's 2024 simultaneous general elections. While previous studies have extensively debated the political and democratic implications of the presidential threshold, limited attention has been given to its constitutional legitimacy in the context of simultaneous elections following Constitutional Court Decision Number 14/PUU-XI/2013. This gap becomes particularly significant in light of the 2024 elections, which fully implement the simultaneous electoral model mandated by the Court. General elections constitute a constitutional mechanism for leadership succession in accordance with the 1945 Constitution of the Republic of Indonesia. However, the persistence of the presidential threshold requirement under Article 222 of Law Number 7 of 2017 raises critical constitutional questions regarding equality of political rights, fair representation, and the coherence of electoral design within a simultaneous system. This study employs a normative legal research method supported by an analysis of primary and secondary legal materials, including constitutional provisions, statutory regulations, and relevant Constitutional Court decisions. Through a doctrinal and interpretative approach, this research seeks to clarify the constitutional reasoning underlying the presidential threshold and to evaluate its consistency with constitutional principles and Pancasila as the philosophical foundation of the state. The novelty of this research lies in its focus on the constitutional tension between the open legal policy doctrine affirmed in Constitutional Court Decision Number 52/PUU-XX/2022 and the substantive constitutional values of popular sovereignty, political equality, and justice within a simultaneous electoral framework. The study has two main findings. First, the legitimacy of the presidential threshold in the 2024 simultaneous elections is formally grounded in Constitutional Court Decision Number 52/PUU-XX/2022, which affirms that determining nomination thresholds constitutes an open legal policy of the legislature. Second, despite its formal legitimacy, the continued application of the presidential threshold in the 2024 simultaneous elections demonstrates substantive constitutional inconsistencies, as it potentially contradicts the spirit of the 1945 Constitution and the philosophical values of Pancasila, particularly in relation to democratic inclusiveness and equal political opportunity. By situating the presidential threshold debate within the framework of constitutional design and simultaneous elections, this study contributes to the ongoing scholarly discourse by offering a more integrated constitutional analysis that bridges doctrinal interpretation and democratic theory.



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INTRODUCTION

General elections (hereinafter written as Election) are an important instrument in a democratic country with a representative system. Elections are a real manifestation of procedural democracy. Indonesia adheres to a democratic system as well as popular sovereignty as regulated in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) which states that "Sovereignty is in the hands of the people and is implemented according to the Constitution". People's sovereignty or democracy as regulated in the 1945 Constitution of the Republic of Indonesia (constitutional democracy) uses elections as a tool to realize democracy (electoral democracy), Gotfirdus Goris Seran (2019). The government system

adopted by Indonesia according to the 1945 Constitution of the Republic of Indonesia is a presidential government system, this system must be consistently integrated into the party system, legislative election system and Presidential election system, Ni'matul Huda and Imam Nasef (2017). Holding general elections is a form of representation of people's sovereignty, basically it is the people who have the highest power and authority, but to ensure order in the process of exercising their power, elections are held to elect the people's representatives in order to run the government itself, both in the executive and legislative branches.

In 2004, Indonesia held the first direct general election for president and vice president after reform. If previously the president and vice president were elected by the People's Consultative Assembly or MPR, making the president and vice president MPR mandataries, then since 2004, the president and vice president have been elected directly by the people as an embodiment of popular sovereignty (Mukhlis et al. 2023). This means that the people are directly free to exercise sovereignty over their future leaders as stated in Article 22 E Paragraph 5 of the 1945 Constitution of the Republic of Indonesia. The provisions of Article 22 E of the 1945 Constitution, as mentioned above, emphasize that elections are for electing the President and Vice President, members of the DPR, members of the DPD, and DPRD members are held based on the principles of direct, general, free, secret, honest and fair every five years. The mechanism for filling the positions of President and Vice President directly by the people has actually provided an illustration that there is a social contract between voters and those elected therein, the President and Vice President who are elected through direct election will receive a more real mandate and support from the people and the will of the voters will become a guide for the President and Vice President in exercising their powers to manage the country, Achmad Edi Subiyanto (2020).

The results of the changes to the 1945 Constitution gave birth to State institutions that were in an equal position with each other by exercising mutual control (checks and balances), realizing the supremacy of law and justice as well as guaranteeing and protecting human rights. Equality and the availability of mutual control are the principles of a democratic state and a rule of law. The general election for President and Vice President has been regulated and simplified into a new law, namely Law Number 7 of 2017 concerning General Elections (Mukhlis & Saidah, 2025). However, the contents of the regulations still more or less adopt Law Number 42 of 2008 concerning the General Election of the President and Vice President, one of the contents of which still remains regarding the Presidential Threshold. Constitutional Court Decision Number 14/PUUXI/2013 concerning the 2019 Simultaneous General Election (Pemilu) granted some of the requests except for the provisions of Article 9 of Law Number 42 of 2008 concerning the General Election of the President and Vice President. Regarding the Presidential Threshold which contains: "Pairs of candidates for President and Vice President must be proposed by political parties or coalitions between political parties participating in the election that meet the requirements for obtaining seats.

This study looks at the issue of the legitimacy of the presidential threshold in the 2024 simultaneous elections in the Indonesian constitutional system, in article 6A paragraph (5), the article reads "The procedures for carrying out the election of President and Vice President are further regulated in law" The results of the amendment to the 1945 Constitution clearly mandate The election of the President and Vice President is carried out directly by the people. Constitutional Court Decision number: 53/PUU-XV/2017 states that Article 222 of Law Number 7 of 2017 concerning Elections regulates the Presidential Threshold (PT) requirements, namely that presidential and vice presidential candidate pairs are proposed by political parties or combinations of political parties participating in the election that meet the acquisition requirements. Chair (Mukhlis, 2025). The research question that will be answered in this study is what is the basis for the legitimacy of the presidential threshold in the 2024 simultaneous elections in the Indonesian constitutional system. Second, how to apply the presidential threshold in the 2024 simultaneous elections in the Indonesian constitutional system. Therefore, we aim to uncover key critical issues and propose recommendations based on extensive analysis as our solution to the given problem.

The structure of this paper is structured as follows: The first part is an introduction including the background and problem formulation, the second presents studies related to the literature review,

the third part shows the methodology used in continuing this research, in the fourth part, we discuss the findings and make an analysis to find a solution, and finally, section 5 concludes the study.

LITERATURE REVIEW

The Indonesian constitutional system in the early 1990s was marked by changes to the 1945 Constitution (UUD), which in many ways "gave birth" to new concepts and ideas for the Indonesian nation in constitutional law (Mukhlis & Abdullah, 2025). Some of the novelties in the 1945 Constitution resulting from amendments include the adoption of direct election of the President and Vice President. This is as mandated in Article 6A paragraph (1) which states: The President and Vice President are elected as a pair directly by the people. Then in paragraph (2) it is stated: Candidate pairs for President and Vice President are proposed by political parties or a combination of political parties participating in the general election before the general election is held. Furthermore, in article 222 of Law no. 7 of 2017 concerning General Elections. One of the contents is regarding the Presidential Threshold.

The definition of presidential threshold is setting the threshold level of support from the DPR, either in the form of the number of votes obtained (ballot) or the number of seats obtained (seats) that political parties participating in the election must obtain at 20% in order to be able to nominate president from a political party or a combination of political parties. Ansori, *Juridical Journal*, Vol. 4, no. 1 (2017) This means that the presidential threshold is a requirement for someone to be able to run for president or vice president in the election (Mukhlis et al. 2025). This norm is considered to be detrimental to the people's constitutional rights and does not reflect the presidential system, so it has been submitted for judicial review to the Constitutional Court several times. The latest request for judicial review submitted by the Regional Representative Council of the Republic of Indonesia and the Crescent Star Party was still rejected through Constitutional Court Decision Number 52/PUU-XX/2022. Even though it was proposed repeatedly, the Constitutional Court still firmly stated that this threshold provision was constitutional and was considered an open legal policy from the legislators.

The characteristics of a presidential system according to Jimly Asshiddiqie are (1) there is a clear separation of powers between the executive and legislative branches of power, (2) the president is the sole executive, the president's executive powers are not divided and there are only the president and vice president, (3) The head of government is at the same time the head of state or vice versa the head of state is also the head of government, (4) The president has the prerogative to appoint ministers as assistants or as subordinates who are responsible to him, (5) Members of parliament may not hold executive positions and vice versa, (6) The president cannot dissolve parliament or vice versa, (7) if in a parliamentary system the principle of parliamentary supremacy applies, then in a presidential system the principle of constitutional supremacy applies (Mukhlis, Janwari, et al., 2023). Therefore, the executive government is responsible to the constitution, (8) the executive is directly responsible to the sovereign people and (9) power is distributed non-centrally as in a parliamentary system which is centered on parliament, Jimly Asshiddiqie (2007). Indonesia implements a presidential system of government. This is stated in Article 4 Paragraph 1 where the President of the Republic of Indonesia holds government power according to the Constitution. Although in its own implementation, it is not really done in a pure manner. In government, the highest power is in the hands of the president although his power is still balanced with the legislature, in this case the House of Representatives. The presidential system itself, according to Juan J. Linz (1990) in his book *The Perils of Presidentialism*, has weaknesses due to the division of power between the executive and the legislature (divided government) and the tendency for the president to become a minority president, if not supported by the majority of the parliamentary axis.

In the end, the author tries to reveal one answer option and a specific, relevant picture regarding the dynamics of the presidential threshold which is often questioned in reviews of the presidential system in Indonesia. The important thing about this topic is clarifying the electoral system, government system and the process of nominating Indonesia's president and vice president, so that it can produce competent state leaders. Because what is happening now is that there is a tug-of-war in understanding the presidential system in Indonesia which intersects with human rights, as well as the political interests of party elites (Mukhlis, 2025a). Therefore, it is not enough to just look at the constitutional process

and short-term power politics, but to look at the general good of the emergence of potential leaders from outside political parties in accordance with people's rights as citizens.

The results of our study found that there is a regulatory conflict at the central level, namely the 1945 Republic of Indonesia Constitution, Article 6A which requires presidential and vice presidential candidates to be proposed by political parties with Article 222 of Law Number 7 of 2017 concerning Elections, which regulates the Presidential Threshold, with The existence of the Presidential Threshold provisions certainly limits the rights of each party to nominate presidential candidates, or forces new political parties to support the available presidential and vice presidential candidate pairs without having the political power to express their wishes or aspirations (Mukhlis, Arifin, Ridwan, Zulbaidah, et al., 2025). From these findings, it is necessary to reaffirm the essence of general elections in the Republic of Indonesia, as a means of implementing the principle of popular sovereignty in the Republic of Indonesia and it is explicitly regulated that every citizen has the right to be elected and vote in General Elections based on equal rights through direct voting. public, free, confidential, honest and fair in accordance with the provisions of the laws and regulations.

Based on the description above, the problem formulation is identified:

1. What is the basis for the legitimacy of the Presidential Threshold in the 2024 simultaneous general elections in the Indonesian constitutional system.

2. How to apply the presidential threshold in the 2024 simultaneous general elections in the Indonesian constitutional system

RESEARCH METHODS

To answer the research problem, we propose research methodology steps as illustrated in Figure 1 below. This research is structured into five steps:

Problem definition: This has been done and explained clearly in the introduction section above;

Literature Review: The literature review was conducted systematically by examining academic publications, peer-reviewed journal articles (indexed in Scopus and national accredited journals), constitutional law textbooks, and prior studies discussing the presidential threshold, simultaneous elections, and the doctrine of open legal policy. The selection of literature was based on relevance to the research questions, publication credibility, and thematic alignment with constitutional interpretation and electoral system design. Priority was given to recent scholarly debates (post-Constitutional Court Decision No. 14/PUU-XI/2013) to ensure contextual accuracy. The reviewed literature was then categorized into three analytical clusters: (a) constitutional theory and democratic principles; (b) jurisprudence of the Constitutional Court; and (c) legislative policy on electoral thresholds.

Normative juridical research: aims to research legal principles, legal systematics, legal synchronization, legal history, and legal comparison (Soejono Soekanto, Introduction to Legal Research, UI Press, Jakarta, 2007, p. 12). In this study, primary legal materials consist of the 1945 Constitution of the Republic of Indonesia, Law Number 7 of 2017 concerning General Elections, and relevant Constitutional Court decisions, particularly Decision No. 14/PUU-XI/2013 and Decision No. 52/PUU-XX/2022. Secondary legal materials include scholarly commentaries, journal articles, and doctrinal writings on constitutional law and electoral systems. Tertiary materials, such as legal dictionaries and explanatory documents, were used to clarify conceptual definitions. The criteria for selecting legal materials were authority (binding force and institutional origin), relevance to the presidential threshold issue, and interpretative significance in constitutional adjudication.

Analytical Framework: The analysis of legal materials was conducted using a doctrinal and interpretative approach, including grammatical, systematic, and teleological interpretation of constitutional provisions. The study also applies the principle of constitutional supremacy and the doctrine of popular sovereignty as evaluative benchmarks. Legal synchronization analysis was used to assess the consistency between Article 222 of Law No. 7 of 2017 and constitutional norms, while conceptual analysis was employed to examine the scope of the open legal policy doctrine.

Obtaining results: the legitimacy of the presidential threshold in the 2024 Election is formally based on Constitutional Court Decision Number 52/PUU-XX/2022, which states that the authority to determine the prerequisites or thresholds for candidacy for President and Vice President, DPR, DPD, and DPRD constitutes an open legal policy for legislators. Meanwhile, the implementation of the Presidential Threshold in the 2024 Simultaneous Elections in the Indonesian Constitutional System is based on Article 222 of Law Number 7 of 2017 concerning General Elections, which is argued to be inconsistent with the values of the 1945 Constitution of the Republic of Indonesia as well as Pancasila as the philosophical foundation of the state.

Research Limitations: This study is limited to normative juridical analysis and does not incorporate empirical data, such as voter behavior, political party dynamics, or comparative statistical electoral analysis. The conclusions are therefore confined to doctrinal constitutional interpretation and may not fully capture the broader socio-political implications of the presidential threshold policy. Nevertheless, this methodological approach ensures analytical depth and conceptual clarity within the framework of constitutional law.

Finally, the final step is to define the implications of formulating recommendations for the future [5]

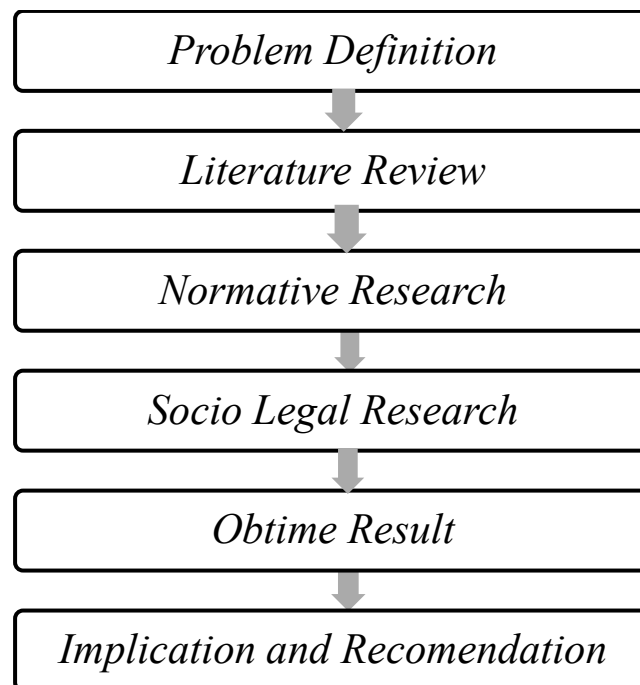


Figure 1: Research Methods

RESULTSAND DISCUSSION

A. Legitimacy of the Presidential Threshold in the 2024 Simultaneous Elections in the Indonesian Constitutional System.

Every five years, the Indonesian nation holds an election for President and Vice President, hereinafter called the Presidential Election. After the amendment to the 1945 Constitution of the Republic of Indonesia, to be precise in 2004, Indonesia held the first direct general election for president and vice president after reform. If previously the president and vice president were elected by the People's Consultative Assembly or MPR, making the president and vice president MPR mandataries, then since 2004, the president and vice president have been elected directly by the people as an embodiment of popular sovereignty (Mukhlis, Maryam, et al., 2023). This means that the people are directly free to exercise sovereignty over their future leaders as stated in Article 22E Paragraph 5 of the 1945 Constitution. The provisions of Article 22E of the 1945 Constitution, as mentioned above, confirm that elections to elect the President and Vice President, members of the DPR, members of the DPD, and

members of the DPRD are held based on the principles of direct, general, free, confidential, honest and fair every five years. The mechanism for filling the positions of President and Vice President directly by the people has actually provided an illustration that there is a social contract between voters and those elected therein, the President and Vice President who are elected through direct election will receive a more real mandate and support from the people and the will of the voters will become a guide for the President and Vice President in exercising their powers to manage the country, Achmad Edi Subiyanto, Constitutional Journal, Vol. 17, no. 2, June 2020, Change of mechanism for selecting the President and Vice President as regulated in Article 6 of the 1945 Constitution, which previously "The President and Vice President are elected by the MPR with the majority of votes" changed to Article 6A of the 1945 Constitution "The President and Vice President are elected directly as a pair by the people" (Article 6 paragraph (2) of the 1945 Republic of Indonesia Constitution) which explains "The conditions for becoming president and vice president are further regulated by law". Meanwhile, article 6A paragraph (5) reads "The procedures for holding the election of the President and Vice President are further regulated in law." This is a reflection of the framework for implementing the presidential system in Indonesia. The first direct elections were held in Indonesia in 2004, where citizens had the right to elect their representatives to sit in the DPR/DPRD/DPD and directly elect the presidential and vice presidential partners. Law Number 20 of 2004 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2004 concerning Amendments to Law Number 12 of 2003 concerning General Elections of Members of the People's Representative Council and Regional Representative Councils. Also, Regional People's Representative Council, Becomes Law; Law Number 23 of 2003 concerning the General Election of President and Vice President; Law Number 12 of 2003 concerning General Election of Members of the People's Representative Council, Regional Representative Council and Regional People's Representative Council; and, Law Number 2 of 1999 concerning Political Parties. In Article 24 of Law No. 32 of 2004 concerning Regional Government, it is stated that regional heads and deputy regional heads are elected as a pair directly by the people of the region concerned (<https://www.inews.id/apps>)

The dynamics of discussions regarding the presidential election system based on changes to the 1945 Constitution of the Republic of Indonesia began with the formation of Law Number 23 of 2003 concerning the General Election of President and Vice President (UU Pilpres I). Article 6A(2) of the 1945 Constitution states that "pairs of candidates for president and vice president are proposed by political parties and/or combinations of political parties participating in the election before the general election is held" creating a minimum limit for political parties participating in the general election to be able to nominate president and vice president (presidential threshold) stated in the Presidential Election Law I; Since the presidential threshold norm was implemented and maintained until Law Number 7 of 2017 concerning General Elections (Election Law), there have been many lawsuits repeatedly before the Constitutional Court (MK) to annul this provision; including in cases: 51/PUU-VI/2008, 52/PUU-VI/2008, and 59/PUU-VI/2008 which examine the constitutionality of the presidential threshold provisions in Article 9 of Law Number 42 of 2008 concerning the General Election of President and Deputy President / Second Presidential Election Law, Saldi Isra (2019) . Furthermore, under the Election Law regime, testing of the provisions related to the presidential threshold in Article 222 of the Election Law is contained in application Number 51-52-59/PUU-VI/2008; was again maintained in Constitutional Court Decision Number 53/PUU-XV/2018. (Saldi Isra (2019) '

The Constitutional Court (MK) has also issued several decisions regarding the material review of the presidential threshold; Kuswanto Kusnadi, Journal of Legal Studies, Volume 5 Number 1, (2020). "The Constitutional Court and Efforts to Uphold the Principle of Presidentialism in Indonesia) including in the Constitutional Court Decision (PMK) No. 51-52-59/PUU-VI/2008 dated 18 February 2009, PMK No, 14/PUU-XI/2013 dated 23 January 2014, PMK No. 108/PUUXI/2013 dated 11 February 2014, PMK No. 53/PUU-XV/2017 dated 19 December 2017. All tests related to the presidential threshold state that the presidential threshold is legal and constitutional to be maintained (most recently in PMK No 53/PUU-XV/2017). The Constitutional Court also stated that the regulation regarding the presidential threshold is an open legal policy; which is freely determined by the law maker or legislature (in PMK No. 108/PUU-XI/2013). In PMK No. 14/PUU-XI/2013 which reviewed Article 3(5), Article 9, Article 12(1) and (2), Article 14(2) and Article 112 of the Presidential Election Law II, the Constitutional Court did not provide a decision regarding Article 9 of the Presidential Election Law II

which regulates the presidential threshold. Apart from that, it is very important to understand that Article 3(5) of the Presidential Election Law II concerns the implementation of two-stage elections; namely that the presidential election was held after the DPR, DPD and DPRD elections were given a ruling by the Constitutional Court that the article was unconstitutional (Mukhlis et al., 2024). The articles approved by the Constitutional Court in PMK No. 14/PUU-XI/2013, namely Article 3(5), Article 12(1) and (2), Article 14(2), and Article 112 of the Presidential Election Law II. Regarding PMK No. 14/PUU-XI/2013, if it is paid attention to partially, it will impact and disrupt the course of the 2014 General Election which will soon take place at that time, Dewa Putu Wahyu Jati Pradnyana, I Gede Yusa & Ni Luh Gede Astariyanik, (2018).

Therefore, in consideration of not disrupting the 2014 General Election which will be held at that time, in decision number two, the Constitutional Court stated that the decision in number 1 of PMK No. 14/PUU-XI/2013 applies to the 2019 General Election and subsequent General Elections. This means that the provisions for implementing elections after PMK no. 14/PUU-XI/2013 continues to be implemented in accordance with the old law and provisions. Meanwhile, the cancellation of Article 3(5) of the Presidential Election Law II by PMK no. 14/PUU-XI/2013 is used for the 2019 elections and also applies to the next elections. Apart from that, in decision number 3 PMK No. 14/PUU-XI/2013, the Constitutional Court confirmed that it rejected the applicant's application for other than that. This was intended by the Constitutional Court that Article 9 of the Second Presidential Election Law which was not included in the decision should still be maintained (Constitutional Court Decision Number 14/PUU-XI/2013, pp. 82-83, Jamaluddin Ghafur and Allan Fatchan Gani Wardhana, Stara Press, Malang, (2019). The reason the Constitutional Court maintains it is because this is the domain of law makers; which also stipulates provisions regarding the requirements for obtaining votes for political parties as a condition for nominating presidential and vice presidential candidate pairs. Apart from that, the requirements in Article 9 of the Presidential Election Law II are legal policies which is open; which in essence is not related to simultaneous elections or not.

In 2017–2018, the Constitutional Court again stipulated the PMK regarding the presidential threshold provisions in the Election Law. In Decision No. 53/PUU-XV/2017, the Constitutional Court rejected the petitioners' application. The test, represented by 12 people, resulted in PMK No. 53/PUU-XV/2017; which states that the authority to determine the prerequisites or thresholds for the nomination of President and Vice President is an open legal policy. Constitutional Court Decision Number 52/PUU-XX/2022, p. 74) Therefore, the historical aspect of the implementation of the presidential threshold system began with the implementation of the electoral threshold (2004 Election); until various tests emerged regarding the threshold provisions for presidential and vice presidential nominations, and in the end these provisions were maintained by the Constitutional Court to this day.

B. Implementation of the Presidential Threshold in the 2024 Simultaneous Elections in the Indonesian Constitutional System

2004 was marked by the first presidential election in Indonesia using the presidential threshold method, then continued in 2009 and 2014. At that time, the election of members of the DPR, DPD and DPRD was first carried out, after the legislative elections were finished then the election of the president and vice president, meaning Each political party has already collected votes from the legislative elections, which were held long before the presidential election was held, from which these votes became tickets to nominate president and vice president. The election of the president and vice president is a very important agenda for the Indonesian people, because the presidential election aims to elect candidates for president and vice president who will lead the Indonesian nation for the next five years. Therefore, qualified presidential and vice presidential candidates are needed, which is the mandate of the 1945 Constitution, which is a form of implementation of popular sovereignty. Bearing in mind that the general election is to elect the President and the People's Representative Council which are two separate state institutions, each having its own position and authority in the constitution and the source of legitimacy of its power based on popular sovereignty through general elections, in this case the DPR consists of various political party factions. an institution that supervises, monitors and balances executive power, while the President is an institution that plays a direct role in the realm of policy and operational activities of government administration as head of government. Therefore, the existence of a presidential threshold is in line with the spirit of strengthening the presidential system from a

constitutional perspective. The people's representatives who are members of the legislature and those who hold executive positions are selected and supervised by the people themselves. People's representatives resulting from elections are expected to represent and present the interests of the people. Apart from producing a representative and responsible government, Muhadam Labolo, (2015). The constitutional design of the Presidential Threshold is an additional provision regarding the regulation of the conditions for the nomination of President and Vice President in Article 6A paragraph (2) of the Constitution of the Republic of Indonesia which states that "Pair Candidates for President and Vice President are proposed by political parties or combinations of political parties participating in the election before the election is held", then, the provisions of Article 22 E Paragraph (2) of the NRI Constitution regulate that general elections are held to elect members of the DPR, DPD, DPRD and the President and Vice President, then paragraph (3) states that "participants in the general election to elect members of the DPR and DPRD are parties Politics" (See Article 22E Paragraph (3) of the 1945 Constitution of the Republic of Indonesia). In 2019 there were changes to the law regarding the presidential and vice presidential elections, which became the basis for holding elections for 2019, namely Law no. 7 of 2017 concerning General Elections which explicitly regulates presidential elections and also legislative elections therein, elections for president and vice president, members of the People's Representative Council (DPR), Regional Representative Council (DPD) and Regional People's Representative Council (DPRD) which are held simultaneously at one time, so that it becomes a polemic and debate. If we refer to the results of the previous DPR election, this is contrary to the principle of one person, one vote, one value (OPOVOV), Alfa Fitri and Wicipto Setiadi, Indonesian Legislation Journal, Vol. 19 No. 1, March (2022). This percentage continues to increase with each election. In 2004, the presidential threshold was set at 15 percent of the number of seats in the People's Representative Council (DPR) or the equivalent of 20 percent of the national vote. Meanwhile, in 2009, Article 9 of the Second Presidential Election Law set a presidential threshold of 20 percent of the DPR vote or the equivalent of 25 percent of the valid national vote, at which time the election was held in two stages. In the 2014 Presidential Election, the presidential threshold provisions continued to use the provisions stated in the Second Presidential Election Law, namely 20 percent of the votes of the House of Representatives or 25 percent of the valid national votes. Furthermore, in the presidential elections in 2019 and next year 2024, regulated by Article 222 of Law No. 7 of 2017 concerning Elections, the Presidential threshold is determined at 20 percent of the DPR vote or 25 percent of the national valid vote with an election system that is held simultaneously and the provisions The threshold is taken from the previous year of the 2019 Election, Aprilian Sumodiningrat, "Journal of Legal Reform Studies Volume 1, no. 1 (2021). The implementation of the presidential threshold in elections is increasingly narrowing the number of presidential candidate pairs. However, by some groups, implementing a presidential threshold is considered important to create a stronger presidential system. Strong support at the beginning through the threshold is considered to strengthen and make it easier to implement the work program in the future. Some other parties have different views. The application of thresholds is considered to suppress the people's right to obtain the leaders they desire. Since the 20 percent threshold was implemented, there can only be a maximum of three candidate pairs. People's space in voting is indirectly limited so that people become apathetic. Provisions regarding the application of the presidential threshold are contained in article 222 of Law No. 7 of 2017 concerning General Elections, which Alfa Fitri and Wicipto Setiadi consider to be contrary to the principle of One Person, One Vote, One Value (OPOVOV) from the 2014 and 2019 elections, due to the conversion of voters' votes. Legislative seats in elections are used to nominate president and vice president. There is also a view that the presidential threshold provisions are considered to be contrary to the logic of the 2024 general election, where the voting of the People's Representative Council, Regional People's Representative Council, Regional Representative Council, president and vice president is held simultaneously, meaning that votes or support for the president and vice president are equal. with support/votes for the People's Representative Council, Regional People's Representative Council, Regional Representative Council. The constitutional court answered that determining the threshold is the legal policy of the legislator, meaning that the constitutional court seems to throw the issue away by stating once again that the decision is a legal decision from the legislator which cannot be contested, Tsabbat Aqdamana, Law Journal (2022) .

The application of the threshold provisions to date still continues to reap pros and cons. The application of the threshold is considered to limit the democratic freedoms of the Indonesian people. Since 2014, Indonesia has only been given the choice of two pairs of candidates and with the same presidential candidate. This does not at all describe a democracy that is free in choosing leaders. The limitation of two pairs of candidates is a difficult choice when people do not choose one pair of candidates so they have to choose the other pair of candidates. If the threshold provisions continue to be updated, it is not impossible that in the future there will only be one pair of candidates who have the golden ticket to advance in the election. The implementation of the presidential threshold system has the possibility of leading the Indonesian government into an authoritarian abyss. Limited choices make people apathetic. The presidency adopted by Indonesia is not relevant to the current electoral system. What's worse, the simultaneous election system which will be implemented in the 2019 election and the upcoming 2024 election, still requires the threshold for submitting candidates for President and Vice President to be based on the total number of legislative election results. This may be a new phenomenon along the route of democracy in Indonesia. However, the cohesiveness of the presidential system and presidential elections experiences a "gap" so that the seriousness of building a pure system is quite complex, Rahmat Teguh Santoso Gobel, Volume 1, no. 01 (2019).

The Constitutional Court stated that there is no correlation between the application of thresholds and the failure to hold democratic elections, because the valid votes obtained by political parties are a form of people's trust in the candidate pairs from that party. This is rejected by many parties, because votes for DPR seats have different values from votes to elect the president. Regarding the opinion that the presidential threshold provision is a manipulation and tug-of-war over the political interests of parties supporting the government, the constitutional court is of the opinion that the formation of a law is a political decision from a political process of state institutions which the constitution gives authority to, namely the DPR and the president. From this opinion the author draws the conclusion that decision making regarding laws is a political product that can change according to the authorities who have the possibility of including the personal interests of parties in their decisions with the cover of sovereignty for the people, Tsabbit Aqdamana, Jurnal Hukum, Vol.2, No.2, Year (2022).

Threshold conditions require the president to always depend on the support of parliamentary votes, which has the potential to open up transactional politics. This is because the support for parliamentary votes does not reflect a pure coalition, but rather a coalition containing tug-of-war interests that imprison the president's steps in determining political choices regarding the selection of the vice presidential candidate who accompanies him. One of the underlying factors in the president's imprisonment is that a threshold is still in place which requires the president to submit to the rules of the political party coalition. This gap can reduce the president's freedom to make choices when running a government that is completely dependent. This picture confirms that Indonesia has not been able to implement a pure presidential system, Rahmat Teguh Santoso Gobel, Volume 1, no. 01 (2019).

The presidential threshold provision is also considered ineffective in guaranteeing the quality of candidate pairs, as happened in the 2004 presidential election, where the people's choice actually fell on candidates from small parties who did not have a dominant voice in parliament. In fact, the presidential threshold is indeed effective in selecting candidate pairs who are considered worthy, but limiting the people's voting rights to only two or three candidate pairs is not the best way. Countries with a presidential system of government such as America, Mexico, Brazil do not implement a presidential threshold, proving that threshold provisions are not necessary and must be implemented.

Isra Saldi believes that the logical consequence of the legislative elections that precede the presidential elections is the creation of political parties' dependence on the results of the DPR elections in preparing the candidacy for president and his deputy. This dependency was even institutionalized through the prerequisites for the presidential nomination threshold mechanism. As mandated by the 2004 and 2009 Presidential Election Laws, political parties and/or combinations of political parties must obtain a certain total number of votes or seats nationally in the DPR as a condition for nominating presidential and vice presidential candidates. Whether we realize it or not, the requirements for the threshold mechanism for presidential candidacy are not only a prison for the political parties themselves, but also reflect presidential practices that have parliamentary nuances. In fact, according to the presidential system scheme, the presidential and DPR institutions are two separate institutions that

have different bases of political legitimacy, and are not mutually dependent on each other, so the presidential candidacy should not be dictated or determined by the political formation of the national parliament as a result of the legislative elections, Saldi Isra (2019).

The provisions on the conditions for the presidential and vice presidential elections in Article 222 Number 7 of 2017 concerning General Elections, are contrary to the values of the 1945 constitution/basic law and the Pancasila view of life. Good election provisions at least have a balance between the electoral system (electoral law) and the main principles of the election process (electoral processes) in the social life of society. In its implementation, the a quo provisions eliminate the right of equal opportunity for the political parties participating in the election. has passed the KPU verification requirements to be able to take part in the democratic party process and nominate the best presidential and vice-presidential candidates directly from his political party. This provision is contrary to the basic values of the Republic of Indonesia Constitution, which can be proven by the many judicial reviews requested by the Constitutional Court from the birth of the presidential threshold until now, even though in countries that have adopted a presidential system, the majority do not use presidential nomination thresholds and do not blame the large number of candidates from mpolitical parties are participating in the presidential election, because the majority of them use the second round to minimize the people's choice of candidates with the most votes of 50+1.

CONCLUSION

Based on the discussion above, it can be concluded that the legitimacy of the presidential threshold has been historically maintained within Indonesia's constitutional framework since its implementation in the 2004 Election up to the 2024 simultaneous elections. Various judicial review petitions challenging the threshold requirement have ultimately been rejected by the Constitutional Court, most recently through Constitutional Court Decision Number 52/PUU-XX/2022, which reaffirmed that determining the prerequisites or thresholds for the nomination of President and Vice President, as well as members of the DPR, DPD, and DPRD, constitutes an open legal policy delegated under Article 6A paragraph (5) of the 1945 Constitution. Accordingly, from a formal constitutional standpoint, the presidential threshold remains legally valid and institutionally justified within the structure of Indonesia's constitutional system.

However, despite its formal legitimacy, the implementation of the presidential threshold in the 2024 simultaneous elections, as regulated under Article 222 of Law Number 7 of 2017 concerning General Elections, raises substantive constitutional concerns. The provision appears to create tension with the fundamental values embodied in the 1945 Constitution and Pancasila, particularly those relating to popular sovereignty, political equality, and democratic inclusiveness. In the context of simultaneous elections, the continued application of a threshold based on previous legislative election results may weaken the coherence of the electoral design and limit equal opportunities for verified political parties to nominate presidential and vice-presidential candidates. This imbalance suggests that the current regulatory framework requires critical re-evaluation to ensure harmony between electoral law and the broader constitutional principles governing democratic governance.

In light of these findings, this study recommends that legislators reconsider the formulation of Article 222 of Law No. 7 of 2017 in future electoral reforms, including the possibility of revising or eliminating the presidential threshold to better align with the logic of simultaneous elections and the principle of equal political opportunity. A constitutional redesign of the nomination mechanism—such as adopting a zero-threshold model or developing alternative qualification criteria—could provide a more proportionate and inclusive approach. Furthermore, the Constitutional Court may, in future adjudications, elaborate clearer substantive standards to assess the proportionality and constitutional compatibility of nomination thresholds.

Practically, reformulating the presidential threshold policy has the potential to strengthen democratic inclusiveness, broaden electoral competition, and enhance public trust in electoral institutions. From an academic perspective, future research should explore comparative constitutional models of presidential nomination in other presidential systems and conduct empirical assessments of the threshold's impact on party system dynamics, voter choice, and democratic consolidation in

Indonesia. Such studies would contribute to a more comprehensive and evidence-based discourse on electoral reform within Indonesia's evolving constitutional democracy.

SUGGESTION

1. The direct election of the president and vice president is an application of the principle of popular sovereignty (democratization), where the people are fully sovereign in choosing the leader who will be their representative. Direct elections also show the strong legitimacy of the people towards the president and vice president. However, applying a presidential threshold of 20% is not a presidential characteristic because presidential nominations are based on the results of the DPR election, meaning that the presidential election is not purely a direct election. Even though the characteristic of a presidency is direct selection by the people and the elected president has the prerogative to choose his ministers freely, this is intervened by a coalition of political parties.

2. The presidential threshold solution is that the threshold must be considered; Whether it is removed or relaxed regarding the number of limits, however, the author recommends that "the presidential threshold be removed", meaning that the threshold must be completely removed with the consideration that the presidential threshold if implemented in the 2024 simultaneous election regime is illogical, because the results of the legislative elections are five years previously (in 2019) it was used as the basis for obtaining 20% (twenty percent) of the DPR seats or 25% (twenty five percent) of valid national election votes for each political party to nominate president and vice president. Of course, this practice has become irrelevant, because the 2019 election results were obtained from total voters and different socio-political conditions in 2024

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