



Abolishing the Presidential Threshold and the Future of Electoral Democracy in Indonesia

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Abstract

The abolition of the presidential threshold by the Constitutional Court marks a significant milestone in the development of electoral democracy in Indonesia. This decision reflects a shift toward a more inclusive and equitable political system by granting equal opportunity for all political parties to nominate presidential and vice-presidential candidates without administrative barriers. Normatively, this policy aligns with the principles of constitutional democracy that uphold citizens' political participation rights. It also has the potential to broaden political choices, enhance electoral competition, and diminish the dominance of major party oligarchies. However, the removal of the threshold also presents challenges, such as the potential for vote fragmentation and weak parliamentary support for the elected president. Therefore, this reform must be accompanied by systemic changes, including amendments to electoral laws, strengthening of electoral institutions, and improved political education for the public. With a holistic approach, the abolition of the presidential threshold can serve as momentum to strengthen the quality and representativeness of Indonesia's electoral democracy in the future.

Keywords: Presidential Threshold, Electoral Democracy, Constitutional Court, Electoral System, Political Reform..

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Introduction

Voting is a fundamental mechanism in democratic states with representative governance, serving as a tangible manifestation of procedural democracy. The concept of democratic governance is that the people hold the highest authority. Article 1, paragraph (2) of the 1945 Constitution affirms that sovereignty rests with the people and is exercised in accordance with the Constitution. As a democratic state, it can be said that elections are an expression of popular sovereignty, which is part of the human rights of every citizen. Elections in Indonesia are not merely a political practice, but also have a strong legal foundation in the country's Constitution. (Fadlillah, 2022)

In line with this constitutional principle, elections in Indonesia have become one of the fundamental pillars of the nation's democratic system. Since the adoption of a direct democracy system following the 1998 Reform, Indonesia has experienced significant changes in the way its leaders and representatives are elected. Elections, which are conducted directly, openly, freely, confidentially, honestly, and fairly, provide space for the public to determine the country's political direction. However, as political dynamics and the electoral system become more complex, various new regulations have been introduced to manage and refine political competition — one of which is the nomination threshold provision.

During the 2019 election, an intense public discourse emerged regarding the Presidential Threshold, which refers to the minimum criteria required to nominate a presidential candidate based on parliamentary representation or valid nationwide votes. Article 222 of Law Number 7 of 2017 on General Elections outlines the qualifications for presidential candidates, stating that presidential and vice-presidential nominees must be endorsed by political parties or coalitions that meet the condition of securing at least one parliamentary seat. (Sulistiono & Boediningsih, 2023)

As a country with a pluralistic and diverse political system, Indonesia faces the challenge of creating a more inclusive and representative electoral system. This has sparked discussions about whether the presidential nomination threshold needs to be revised or changed to ensure that the electoral system reflects the political diversity present in Indonesia, especially in the context of a participatory and more democratic government.

The establishment of the presidential threshold regulation has elicited widespread controversy, with segments of the public articulating both support and dissent. The protracted deliberation concerning the eligibility criteria for presidential and vice-presidential nominations was particularly contentious during the legislative process of the Election Law. A series of Constitutional Court judgments have contributed significantly to shaping the discourse, including Decision No. 51-52-59/PUU-VI/2008 (February 18, 2009); Decision No. 14/PUU-XI/2013 (January 23, 2014); Decision No. 53/PUU-XV/2017 (December 9, 2017); and Decision No. 74/PUU-XVII/2020. The most recent verdict, Constitutional Court Decision No. 62/PUU-XXII/2024, nullified the provision regarding the presidential threshold as delineated in Section 222 of Law No. 7 of 2017 on Elections.

The enforcement of the Presidential Threshold mechanism has resulted in various implications and drawbacks. It mandates political parties to form alliances to nominate presidential and vice-presidential candidates, thereby amplifying the potential for interest-driven political transactions. Moreover, the stipulation diminishes voters' ability to make informed and autonomous choices, thereby undermining the efficiency and integrity of the democratic process. These persistent concerns have fueled ongoing scholarly and public debates regarding the extent to which the system aligns with democratic electoral principles and whether it warrants revision or complete repeal. (Ambarwati, 2020)

In light of these issues, this study seeks to explore the elimination of the presidential threshold and its impact on the future of electoral democracy in Indonesia. It aims to conduct a critical assessment of the constitutional consequences stemming from both the enforcement and removal of the presidential threshold, viewed through the lens of democratic electoral principles. The expectation is that doing away with the presidential threshold will contribute to a more promising future for Indonesia.

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Literature Review

The study by Geniosa (2024) employs a juridical-normative approach to examine the presidential threshold regulation within the Indonesian legal system. In this analysis, Geniosa highlights that the nomination threshold for presidential candidates, as stipulated in Article 222 of Law No. 7 of 2017, actually restricts citizens' political rights. The study emphasizes the interests of political elites, in contrast to the present research, which argues that the presidential threshold not only affects political configurations but also violates fundamental principles of law and democracy.

The study by Armia et al. (2024) Argues that eliminating the presidential threshold holds significant potential to restore the political rights of minority parties and citizens in the presidential and vice-presidential candidacy process. The difference from this study is that their research focuses on the empowerment of minority parties and participatory democracy, whereas this study examines the effects of the threshold in the context of practical politics and the mechanisms of electoral democracy.

Mahzur & Putri (2024) emphasize that the abolition of the presidential threshold plays a crucial role in strengthening the principles of democracy and transparency within Indonesia's presidential election system. According to them, the threshold has contributed to political inequality by benefiting major parties and certain political elites, thereby limiting opportunities for more representative alternative candidates. The difference from this study is that it examines the concrete consequences and political dynamics resulting from the threshold regulation.

Research Methods

The research method used in this study is a normative research method with a descriptive-analytic and evaluative approach. Descriptive research aims to describe, explain, or present a particular phenomenon or issue systematically without altering or manipulating the research object. Descriptive research focuses on presenting existing facts or conditions without attempting to find causal relationships or make predictions. This research can also be categorized as policy evaluation, as its goal is to assess whether the abolition of the presidential threshold can improve or undermine the effectiveness of elections and the representation of the people in Indonesia's democracy. The methods used in this research include both qualitative and quantitative approaches.

The author employs a statutory and descriptive-analytical approach to examine and assess the implications of the Constitutional Court's ruling on Indonesia's system of elections, while relating it to the prospects of electoral democracy.

Sources of legal materials: In this research, the legal sources are divided into primary and secondary legal sources:

- a. Primary legal sources
 - Constitutional Court rulings related to the presidential threshold
 - 1945 Constitution of the Republic of Indonesia
 - Law No. 7 of 2017 on Elections
- b. Secondary legal sources
 - Books or literature relevant to the research
 - Journals
 - News or internet sources

This legal source aims to utilize literature study, document analysis, and content analysis. The research is expected to provide a comprehensive understanding of the changes that have occurred following the abolition of the presidential threshold and its implications for political representation, electoral competition, and government stability in Indonesia. This study is limited to the legal and political aspects related to the abolition of the presidential threshold within the context of Indonesia's electoral democracy. The research will not examine other technical aspects of elections, such as vote

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counting or political campaigns, and will instead focus on the legal and political implications of this policy change.

Results and Discussion

General elections (Pemilu) serve as a fundamental mechanism in democratic governance. They function as a vital tool through which the people exercise their sovereignty to select leaders and representatives entrusted with governing the nation, shaping public policy, and safeguarding the public interest—all in pursuit of the democratic aspiration of building a fair and prosperous society. In Indonesia, legislative elections have taken place 12 times. The practice of directly electing the President and Vice President by the public began in 2004, and continued in the subsequent elections of 2009, 2014, and 2019, marking two significant transitions in national leadership. However, it should be recognized that elections do not always occur at fixed five-year intervals, as they are often shaped by prevailing political conditions. This situation raises further questions regarding the nomination process for presidential candidates and the interplay between electoral procedures and the presidential form of government. (Cahyono et al., 2023)

In a presidential system of government, the institutions of the President and the House of Representatives (DPR) are two separate state organs, each having distinct positions and not being dependent on one another. Therefore, it can be concluded that the nomination of the President and Vice President should not be solely determined by the interests of political parties in the national legislature. (Harlian Satria Wilwatikta et al., 2024)

The presidential threshold regulation poses significant obstacles for smaller political parties by restricting their ability to put forward candidates for President and Vice President. Consequently, numerous parties and individuals have filed petitions with the Constitutional Court (MK), either on their own behalf or as party representatives. These cases challenge the legitimacy of the threshold system, arguing that it infringes upon the political rights of both individuals and political parties. Furthermore, it is contended that legislators erred in formulating additional rules concerning the procedures for presidential elections as stipulated in Article 6A of the 1945 Constitution of the Republic of Indonesia, by introducing the presidential threshold requirement.

There are several negative impacts of the presidential threshold system regulated in the Election Law, as explained by the Chairman of the Regional Representative Council (DPD) of Indonesia, La Nyalla Mahmud Mattalitti. He stated that the first impact is that the system tends to produce only two pairs of candidates, even though ideally there could be three to four candidates. Quoting Ir. AA La Nyalla Mahmud Mattalitti's view, he emphasized that the use of this system can have a negative effect on Indonesia's political system because the nation can only produce two candidate pairs, which has the potential to cause political polarization and division within society. The presidential threshold can also overlook competent leadership candidates and reduce the public's opportunity to choose the best leaders. Moreover, this rule weakens small political parties in contesting to nominate their own candidates, bringing about the presidential and vice-presidential elections being dominated by major parties. La Nyalla believes this regulation needs to be reconsidered for the progress of democracy in Indonesia. (Soebanto, 2021)

A. The Constitutional Court has made several concerning the presidential threshold

The presidential threshold can limit the participation of small or new parties in nominating presidential candidates, reduce political plurality, and overlook the aspirations of minority voters. This high requirement encourages parties to form large alliances, which leads to a concentration of power and electoral injustice. It has a negative impact on political participation and public trust. The imposition of

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the threshold in the 2024 Election may obstruct the democratic process and suppress public aspirations, while also fostering a disproportionate consolidation of political power.

There have been 32 instances where the Constitutional Court (MK) has rejected and dismissed the judicial review of the presidential threshold provisions in presidential elections. The distribution of cases based on the year of application is as follows:

Decision Number	Year	Status
4/PUUXV/2017	2017	Not accepted
53/PUUXV/2017	2017	Partially granted
59/PUUXV/2017	2017	Rejected
70/PUUXV/2017	2017	Not accepted
71/PUUXV/2017	2017	Not accepted
72/PUUXV/2017	2017	Not accepted
49/PUUXVI/2018	2018	Rejected
50/PUUXVI/2018	2018	Not accepted
54/PUUXVI/2018	2018	Rejected
58/PUUXVI/2018	2018	Not accepted
61/PUUXVI/2018	2018	Not accepted
92/PUUXVI/2018	2018	Not accepted
35/PUUXVIII/2020	2020	Withdrawn
74/PUUXV/2020	2020	Not accepted
44/PUUXIX/2021	2021	Not accepted
66/PUUXIX/2021	2021	Not accepted
68/PUUXIX/2021	2021	Not accepted
70/PUUXIX/2021	2021	Not accepted
5/PUUXX/2022	2022	Not accepted
6/PUUXX/2022	2022	Not accepted
7/PUUXX/2022	2022	Not accepted
8/PUUXX/2022	2022	Not accepted
11/PUUXX/2022	2022	Not accepted
13/PUUXX/2022	2022	Not accepted
16/PUUXX/2022	2022	Withdrawn
20/PUUXX/2022	2022	Not accepted
42/PUUXX/2022	2022	Not accepted
21/PUUXX/2022	2022	Not accepted
52/PUUXX/2022	2022	Rejected
73/PUUXX/2022	2022	Rejected
16/PUUXXI/2023	2023	Not accepted

Of the 32 cases, 24 were not accepted, 2 were withdrawn, 5 were rejected, and 1 was partially granted. On Thursday (January 2, 2024), the Constitutional Court (MK) ultimately annulled the presidential threshold entirely.

B. Abolishing the Presidential Threshold and the Future of Electoral Democracy in Indonesia

The democratic tendency observed in Indonesian society so far is that the people have become more intelligent in making their choices—knowing which party is suitable to sit in parliament and which figure is best suited to be president. It is possible that the choices for parliamentary representatives and presidential candidates may differ. In light of this reality, restrictions in the form of a presidential threshold (PT) have violated the constitutional rights of citizens, particularly in choosing the best figure to

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lead the nation. Moreover, one of the objectives of the constitutional amendments is to protect the rights of minorities, Such as a presidential figure whose party did not win the election. (Armia et al., 2016)

In its implementation, Indonesia adheres to a democratic system. The journey of democracy in Indonesia has a long history in its application. Speaking of democracy, it involves the relationship between states, the people and the state, and the government and the people. The people are the central pillar in achieving the main goals of democratic governance. The people hold a dominant right in determining who governs and how the government operates. Hence, elections serve as a fundamental mechanism to establish a democratic system—where decisions originate from the citizens, are made for the benefit of the citizens, and are executed by the citizens themselves.(Anindya & Musaffa, 2021)

The Constitutional Court (Mahkamah Konstitusi/MK) made a significant breakthrough by abolishing the presidential threshold regulation through Decision Number 62/PUU-XXII/2024. The removal of the presidential threshold, or the 20 percent nomination requirement previously stipulated in Article 222 of Law Number 7 of 2017, was deemed to limit opportunities for political participation and to create a tyranny of the majority in the nomination of presidential and vice-presidential candidates. Moreover, the Constitutional Court (MK) has been recognized for effectively upholding its mandate as the Guardian of the Constitution. By conducting this constitutional review, the Court reaffirmed its commitment to safeguarding Indonesia's democratic framework in alignment with the principles enshrined in the 1945 Constitution. (Christy, 2025)

This landmark decision represents a critical momentum to strengthen Indonesian democracy by providing greater space for public participation and broadening access to political contestation. The MK's ruling, as outlined in Case Number 62/PUU-XXII/2024, is not only a legal milestone but also a political signal emphasizing inclusiveness and fairness in the democratic process.

The Constitutional Court (MK) abolished the provision regarding the presidential threshold through the decision in case number 62/PUU-XXII/2024 concerning the judicial review of Law Number 7 of 2017 on Elections. In the decision, the MK stated that Section 222 of the Election Law conflicts with the constitution because it limits the political rights of citizens and the ability of political parties to propose candidates. The MK reasoned that the constitution does not specify any threshold requirements, making the provision inconsistent with the principle of constitutional supremacy. (Oktavia, n.d.)

There are two main reasons underlying the Constitutional Court's decision to grant the petition. First, the limited alternatives of Pairs of candidates for president and vice president being offered. Second, in several presidential elections, there have been nominations by a few political parties in proposing candidate pairs, which limits voters' choices.

Normatively, this step brings Indonesia's electoral system closer to the principles of an inclusive and competitive democracy, as idealized in theories of participatory and representative democracy. The ability of political parties to nominate candidates without administrative barriers creates space for the development of party cadres, leadership regeneration, and the emergence of more diverse political alternatives.

However, this new development also has the potential to present systemic challenges, such as political fragmentation, coalition instability, and increased complexity in the electoral and governance processes. Therefore, the abolition of the presidential threshold must be followed by a comprehensive agenda of legal and institutional reforms, including the revision of election laws, strengthening the functions of political parties, and enhancing the capacity of election organizers.

In other words, the success of this step is determined not only by the opening of a fairer space for presidential candidacy but also by the readiness of Indonesia's democratic system to manage political pluralism and maintain effective governance. Ultimately, this reform will serve as the foundation for a more mature, open, and responsive electoral democracy in Indonesia.

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Therefore, the Constitutional Court's decision to abolish the stipulation concerning the nomination threshold within the presidential electoral framework marks a significant turning point in the evolution of Indonesia's electoral democracy. The elimination of this candidacy threshold reflects the spirit of constitutionalism that upholds the principle of equal political rights for all citizens and political parties, without discrimination based on previous electoral performance.

Conclusions and Practical Implication*Conclusion*

The Constitutional Court's removal of the presidential threshold represents an important breakthrough in the development of Indonesia's electoral democracy. This ruling signifies a move toward a more inclusive, transparent, and equitable system by allowing all political parties to freely nominate presidential and vice-presidential candidates without facing restrictive administrative barriers.

In principle, the abolition of the presidential threshold aligns with the spirit of constitutional democracy, which upholds the political participation rights of citizens. It can also broaden the range of political alternatives, enhance healthy competition in elections, and reduce the dominance of large party oligarchies that have long monopolized presidential nominations.

Practical Implication (Times New Roman 12 pt (italic))

This change also brings its own challenges, such as the potential increase in the number of candidate pairs, which may lead to vote fragmentation, as well as the risk of weak governance due to insufficient support in parliament. Therefore, the abolition of the threshold must be accompanied by further reforms in the electoral system, including revisions to the Election Law, strengthening of election institutions, and enhanced political education for the public. Thus, the success of abolishing the presidential threshold should be measured not only by the opening of candidacy access but also by the nation's ability to build a higher-quality, more representative, and people-oriented electoral democracy system.

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