



Application of Parliamentary Treshold to the Sustainability of Political Parties from a Human Rights Perspective

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Abstract. Law has close relevance to justice. Elections in Indonesia's democratic state are a process of peaceful transfer of power carried out periodically and per the principles outlined by the constitution. There are times when people want supervision of the government. However, there are also times when people get tired of their representatives who continue to behave because of seemingly unlimited power. One of the issues hotly discussed when approaching the 2019 election yesterday was raising the Parliamentary Threshold. Based on this description, a formula can be drawn: How does the Parliamentary threshold affect the existence and development of political parties? The research method used is Normative Legal Research. Parliamentary threshold is recognized as one of many ways to simplify political parties. However, PT must also be recognized as one of the most effective ways because it does not threaten the existence of any particular political party.

Keywords: Parliamentary Treshold, Political Party, Human Rights

INTRODUCTION

The State of Indonesia is a state of law; all behavior of the Indonesian people is governed by law. Law has close relevance to justice. There are even those who think that law must be combined with justice in order to matter as law truly. Elections in Indonesia's democratic state are a process of peaceful transfer of power carried out periodically and by the principles outlined by the constitution. Principles in general elections by the constitution include the principle of constitutional life that is sovereign of the people (democracy) and marked that every citizen has the right to participate actively in every state's decision-making process.

A republic-shaped country has a government system that never escapes its people's supervision. It is a democracy, a form of government formed by the people's will and aims to meet the people's interests. Democracy is a process, meaning that a republic will not stop at one form of government as long as the country's people have a constantly changing will. (Soehino, 2005) There are times when people want supervision of the government. However, people also get tired of their representatives who continue to act because of seemingly unlimited power. In a democratic republic, this social contract or community agreement is embodied as an election. Through elections, the

people can choose who is their representative in the process of channeling aspirations, which determines a country's future.

Indonesia is a state of law with a democratic government. Democratic government is the government of the people, by the people, and for the people; that is why the people have the highest electoral power to propose pairs of candidates for President and Vice President. Direct elections were held first in 2004, then in 2009 and 2014 by Article 22E of the 1945 NRI Constitution to elect the People's Representative Council, Regional Representative Council, President and Vice President, and Regional People's Representative Council directly, publicly, freely, secretly, honestly and fairly every five years.

One of the issues hotly discussed when approaching the 2019 election yesterday was raising the Parliamentary Threshold. The parliamentary Threshold is a minimum vote threshold that must be met by political parties participating in the election to be able to place candidates for their legislative members in parliament. In 2009, the election threshold of 2.5% was applied; this is by the provisions of Article 202 of Law Number 10 of 2008 concerning the General Election of Members of the DPR, DPD, and DPRD. Then, in 2014, the election threshold was raised by 3.5% based on the provisions of Article 208 of Law Number 8 of 2012 concerning the General Election of Members of the DPR, DPD, and DPRD. Furthermore, in the 2019 general election, the parliamentary Threshold was increased to 4%, per the provisions of Article 414 of Law Number 7 of 2017 concerning general elections. This case caused many reactions in the public, especially among experts and other scholars. Some of them agree while others reject the discourse. The reasons for the two are also different, but they are generally quite reasonable. (Rokhim, 2011)

Parliamentary Threshold or parliamentary Threshold began to be applied since the enactment of Law Number 10 of 2008 concerning the General Election of members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council. Of course, with the implementation of the parliamentary threshold system, the public and people who care about politics and elections in Indonesia will ask where the votes of political parties that do not reach the Threshold go. (Sihombing, 2009) Based on the description above, a problem formulation can be drawn: How does the Parliamentary Threshold affect the existence and development of political parties?

LITERATURE

Electoral System (Election)

The electoral system is the relationship of various variables to convert voter votes into seats that will be occupied by elected candidates in the legislative and executive institutions. In other words, the electoral system is a set of variables that govern the contestation of power struggles. (Fajlurrahman, 2018) Simply put, an electoral system is an instrument to translate votes in elections into seats won by parties or candidates. The primary variables often used include electoral formulas, ballot structures, and district magnitudes. (Doni & Arisandi, 2014) The electoral system is a set of methods that regulate citizens in choosing their representatives in a representative institution of the people, such as parliament. Thus, the electoral system can also be a set of methods for transferring voters' votes in a seat in parliament. (Taufik, 2010).

The proportional system is a system where the presentation of seats in the people's representative body is divided into each political party, adjusted to the presentation of the number of votes obtained by each political party; in other words, this system is a method of transferring voter votes in parliamentary seats according to the proportion of voter votes. For example, the number of valid voters in an election is 1,000 people, and the number of seats in the people's representative body is determined at ten seats, meaning that the people need 100 votes for one representative. Theoretically, there is no reference to the practice that occurs in Indonesia that uses the most votes to determine the electability of a candidate because the basis of the proportional system is the high authority of political parties in determining the choice of a candidate.

Parliamentary Threshold

Parliamentary threshold is one of the technical election instruments encountered in countries that implement proportional election systems, including Indonesia. According to August Mellaz, the threshold, electoral threshold, or parliamentary threshold is the same, namely the threshold (condition) that must be exceeded by political parties to send representatives to the representative body. Threshold, electoral threshold, presidential threshold, or parliamentary threshold is usually expressed by the percentage of valid votes or, in some countries, can be expressed as obtaining minimum seats.

The concept of parliamentary threshold was first introduced in Indonesia during the discussion of Law Number 10 of 2008 concerning General Elections. At the beginning of the emergence of the parliamentary threshold concept, two issues related to the concept were highlighted. The parliamentary threshold became one of the crucial issues in the debate of the Election Bill's Special

Committee (Pansus) meeting. For the 2019 election, the increase in the percentage of the parliamentary threshold is considered adequate to simplify the party system in parliament and streamline the presidential system. Given that the Electoral Law that was born after the amendment of the 1945 Constitution has carried the mission to build a simple multiparty system to support a stable and effective government (Aziz, 2023).

METHOD

This research uses the Normative Law research method. Normative Law Research is researching the enforceability of laws that apply as norms in society by examining literature studies with materials related to the problems discussed by the author. Legal research like this does not recognize field research because what is studied is legal materials, so library research focuses on reading and analyzing the primary and secondary materials, often called literature study research. The statute approach reviews all laws and regulations related to the issue being addressed—a comparative approach carried out by conducting comparative legal studies.

DISCUSSION

Each country has its background in setting the threshold percentage. In Indonesia, the application of the parliamentary Threshold is intended for the following three things: the process of simplifying the party system. Second, a solid presidential system supported by effective representative institutions must be created. The effectiveness of representative institutions is inseparable from the many or most miniature factions of political forces in the DPR. The fewer political parties in the representative institution, the better the effectiveness of the implementation of the functions of the representative institution. Third, the existence of the parliamentary Threshold is a step to eliminate the practice of reincarnation of political parties that do not pass the electoral Threshold to participate in the next election. In addition, the existence of the parliamentary Threshold also encourages the development of healthier political parties because the role and function of political parties are extraordinary as determined by the Constitution of the Republic of Indonesia Year 1945 and the Law.

Law Number 10 of 2008 concerning General Elections used for the 2009 general election, a parliamentary threshold of 2.5% (two point five percent) is set, which is applied only in determining the acquisition of DPR seats. In the 2009 general election, there were 44 parties consisting of 38 political parties and six local parties in Aceh that participated in the legislative elections, and political parties that passed the Threshold of 9 parties. The number of political parties participating in this

election must be balanced with the history of the Indonesian state, which has political parties with extreme numbers and various political divisions that increasingly increase the number of existing political parties.

Then, for the 2014 general election, the Election Law was again revised to Law Number 8 of 2012, where the parliamentary Threshold was raised to 3.5% (three point five percent). In the 2014 general election, there were 15 parties, namely 12 political parties and 3 Acehese local parties, that participated in the general election and political parties that passed the parliamentary Threshold of 10 political parties. Furthermore, for the 2019 general election, the General Election Law was again changed to Law Number 7 of 2017, and the parliamentary Threshold was raised to 4% (four percent). For political parties participating in the 2019 election, there are 20 parties consisting of 16 and four local parties.

Judging from the elections in 2009 and 2014, implementing the parliamentary Threshold mesh aims to simplify the party system. The participation in the election in 2014 was relatively small, amounting to 12 (twelve) political parties and 3 (three) Acehese local parties, compared to the 2009 election, whose participants reached 38 political parties and 6 (six) Acehese local parties.

Ideally, to maintain government stability in the presidential political structure, the president's party should be the majority party, that is, the party supported by a majority vote in parliament. This majority power is needed in parliament to ensure the stability of the president-elect's government so that the president can quickly get political support from parliament to launch political policies made by the president. However, this majority vote is only possible for the president's party to obtain in a multiparty situation if it relies on a coalition of political parties in parliament and the cabinet to achieve a majority to ensure the stability of the government.⁴⁶ This was the beginning of the idea of creating a simple multiparty system to maintain the stability of the government.

Therefore, the role of implementing the parliamentary Threshold, where the emergence of the parliamentary Threshold is an effort made by the government and the DPR, is to simplify political parties to achieve the efficiency of political parties in government. The parliamentary Threshold is needed to simplify political parties that aim to create political stability that will later provide strength, authority, and dignity for the government. Reducing the number of political parties in parliament is expected to reduce political fragmentation so that it positively impacts decision-making in parliament. The House of Representatives of the Republic of Indonesia believes that the parliamentary Threshold is suitable for encouraging political parties to work for the benefit of the people; besides that, it is also a solution to people's confusion due to the many political parties where the parliamentary Threshold is a tangible manifestation of people's recognition of the political parties participating in the election.

The basis for the parliamentary Threshold is to maximize the representation of the people's voice in parliament, not limit the people's right to choose their representatives. In Indonesia, the parliamentary Threshold is a requirement for political party votes to be included in parliament. So, after the results of the number of votes of each political party are known in full, then divided by the number of votes nationally.

The existence of political parties has the task of being a very strategic link between government processes and citizens. As stated by Hans Kelsen Poli, political parties are essential vehicles in forming political will. However, political parties are only one form of institutionalization as a form of free expression of ideas, thoughts, views, and beliefs in a democratic society. In the context of political infrastructure, political parties work in the region with other institutions such as interest groups, pressure groups, mass media, and political figures. Campaign activities carried out by political parties can be considered part of people's political education if the intense political communication process during or even before the campaign period begins can successfully instill political values, norms, and symbols based on democratic principles.

The most tangible manifestation is public participation in exercising their voting rights and supporting political parties or candidates representing the community's best aspirations. In a democratic country, political parties are significant in the administration of the state because, through these political parties, the people determine policies to elect the president, vice president, and other state officials. Political parties are tools that community groups have designed in a country to achieve their political goals, and these political parties are the most potent weapons in suppressing the welfare of the state administration.

Political parties are often blamed for ineffective performance between the executive and legislature. In Indonesia, based on the diversity of society and the national legal system, political parties can be classified into four groups: Community political parties, Incorporated political parties, Political parties participating in the election, and Parliamentary political parties. If guided by these four groups of political parties, the political party most responsible for realizing effective government is the parliamentary political party. This is because parliamentary political parties will be responsible for legislative functions and checks and balances mechanisms with the executive branch.

The relationship between human rights and political parties lies in the administration of the Parliamentary Threshold contained in the election law. A thing that is often discussed and discussed, especially in this reform era, is about reducing the political rights of citizens who vote against one party. However, the party concerned cannot vote because it has yet to pass the Parliamentary Threshold. Human rights dynamics are more upheld and given more attention in the reform era than

in the pre-reform era. Remember that we do not live alone and socialize with others to fulfill our rights.

The Parliamentary Threshold in the 2004-2014 elections significantly simplified the number of parliamentary political parties. The number of parliamentary political parties at the DPR and DPRD levels differs from the mandate of implementing PT, which the Constitutional Court has determined. As a result of the legal issuance of the Constitutional Court decision Number 52/PUU-X/2012, which mandated the enactment of PT nationally, the number of parliamentary political parties in the DPR is different from the number of parliamentary political parties in the DPRD. The number of parliamentary political parties in the regions is relatively large because PT is not enforced at the regional level. The existence of policies related to PT at the national level (DPR-RI) can significantly simplify parliamentary political parties.

Parliamentary Threshold is considered a clandestine project that makes parliamentary parties that want to stay within the scope of power more hard work to attract several followers so that their sincerity in fighting for their votes through the formulation of "populist" policies. *The parliamentary Threshold* is a minimum vote threshold that must be met by political parties participating in the election to be able to place candidates for their legislative members in parliament. This means that political parties that do not meet the Parliamentary Threshold are not entitled to have their representatives in parliament, so the votes that the political party has obtained are considered forfeited.

CONCLUSION

The parliamentary threshold contained in Article 414 of Law No. 7 of 2017 is a form of the government's commitment to strengthen the presidential system of government. Because the two positions are interrelated, the executive needs legislative support to carry out its work program. However, the existence of different political fragmentation due to the large number of parties in parliament causes the effectiveness of government to be disrupted. Parliamentary threshold is recognized as one of many ways to simplify political parties. However, PT must also be recognized as one of the most effective ways because it does not threaten the existence of a particular political party. The ideal parliamentary threshold concept for a presidential system of government is that the Parliamentary Threshold must accommodate all groups.

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