

УДК 340(594)

**PRESIDENTIAL THRESHOLD POLICY
IN INDONESIAN PRESIDENTIAL ELECTION OF 2019**

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In 2019 Indonesia would conduct simultaneous elections to elect legislative and executive members; members of House of Representatives, Regional Representatives Council, President and Vice President. Law No 7/2017 on general election sets the implementation of simultaneous general elections. It regulated Presidential Threshold in which a party or coalition of parties wishing to nominate their cadres to be a president and vice president should meet the requirement of at least 20% seats in the house of representatives or 25% of national valid votes in the previous general election of the House of Representatives. This Presidential Threshold requirement raised the pros and cons for the leaders of political parties in Indonesia. Large parties with many votes in the House of Representatives, would agree on the provisions of this rule, while small party leaders, who did not have a vote in the House of Representatives, would reject the provisions of this rule because it was considered very detrimental to small parties and castrate the people's right to elect their future leaders. This study used normative approach and sociological studies of the negative impact on the enactment of these provisions in the Indonesian presidential election of 2019.

Keywords: policy, presidential threshold, presidential election, Indonesia.

**ПРЕДВЫБОРНАЯ ПОЛИТИКА НАКАНУНЕ
ПРЕЗИДЕНТСКИХ ВЫБОРОВ 2019 ГОДА В ИНДОНЕЗИИ**

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В 2019 году в Индонезии одновременно пройдут выборы законодательной и исполнительной власти – членов Совета народных представителей, Совета региональных представителей, Президента и Вице-Президента. Закон о проведении всеобщих выборов был принят в 2017 году. По этому Закону перед выборами партия или коалиция, желающая выдвинуть

своего кандидата на должность Президента или Вице-президента, должна выполнить требование – получить не менее 20% мест в Совете народных представителей или уже иметь в Парламенте 25% голосов избирателей, полученных на предыдущих выборах. Это требование имеет и преимущества и недостатки для лидеров индонезийских партий. Для крупных партий с большим количеством голосов в Палате представителей это требование выполнимо и их устраивает такой Закон. В то же время партии, у которых мало мест в Парламенте, этот Закон не устраивает, лидеры этих партий считают, что такое положение наносит ущерб небольшим политическим движениям и ущемляет права человека в возможности выбора своих кандидатов. Данная статья базируется на нормативном подходе и социологических исследованиях, показывающих негативные последствия принятия Закона, регламентирующего президентские выборы 2019 года в Индонезии.

Ключевые слова: политика, предвыборная политика, президентские выборы, Индонезия.

Introduction

Election is one of instruments for a country that embraces a democratic system in governing and administering the state. Indonesia embraces democratic system in accordance with the provisions of the Article 1 Paragraph (2) of the 1945 Constitution of Republic of Indonesia in which the provisions of sovereignty is in the hands of the people and implemented according to the Constitution. This manifestation of people's sovereignty is elaborated by involving the people in determining the state organizers through elections both the executive and the legislative.

Election which is direct, public, free and secret is one of desires for a country that claims to be a democratic country in which the people has right to elect their leader without being haunted by fear in accordance with his conscience. Democracy puts people in position and capacity as the owner and sovereign holder that is known as the principle of people's sovereignty [2, p. 2]. As the Holder of Sovereignty, the

people determine the way and goals to be achieved in the life of state administration. This shows that the people are in power independently of themselves [6, p. 32].

Election is interpreted as a procedure for achieving democracy or a procedure for transferring people's sovereignty to certain candidates for political positions [11, p. 24]. Moh. Mahfud said that the people's sovereignty implies the existence of government from, by and for the people, indicates that the government of the people contains a definition associated with legitimate government in the eyes of the people [5, p.24].

In 2019 Indonesia would hold simultaneous elections to elect members of House of Representative (HoR), Provincial Representatives, Regional Representative Council, President and Vice President in which there would be a grace period previously between general election of Legislative and Executive. Legislative election precedes the executive election in which the election of executive, President and Vice President Election, it is applied the requirements of Presidential Threshold for party or party coalition wishing to nominate candidate of President and Vice President. In 2019, the enactment of Presidential Threshold contained in Law No 7/2017 concerning general election that is stipulated in the provisions of Article 222 contains some provisions, those are; Candidate Pairs proposed by Political Parties or party coalition should meet at least 20% of seats in HoR or 25% of the national valid votes in the previous HoR election.

The requirements of the Presidential Threshold raise both pros and cons polemics for each reason. For the large party that has representation in the House of Representative, this requirement is not a problem but it is more profitable because only the party that has a voice in HoR alone could propose their cadres to be candidates for President and Vice President while for small parties and new parties there is no chance to propose their best cadres to be a President and Vice President candidate because the party bearers have no voice in the HoR in accordance with the provisions of this law. The provision of Presidential Threshold would indirectly reduce the number of candidates for president and vice president in Indonesia. The maximum number of President and Vice-President candidates would be maximum of

5 couples if the party or party coalition gets 20% of the seats in HoR, and this is unlikely to happen because there is a limit party or party coalition that gets a vote of more than 20%. It means that the presidential candidate would be maximum 4 or 3 candidates in 2019, and it does not rule out that only 2 pairs of presidential and vice presidential candidates if parties or coalitions which have seats in the HoR are joining therefore the number of HoR seats exceeds 60%. In order to find out more related to the requirements of Presidential Threshold then the author studied the Presidential Threshold policy on the Indonesian presidential election in 2019.

Methodology

The method used in this research is normative approach based on juridical analysis of Law no. 7 Year 2017 on the presidential election in which it is regulated normatively regarding the requirements of presidential candidates in Indonesian presidential election of 2019. This also studied a sociological analysis on the responses of the figures especially the leaders of new political parties who does not meet the requirement of Presidential Threshold therefore they are unable to propose a presidential candidate. As a result of this arrangement, it could be confirmed that the presidential and vice presidential candidates in 2019 would be small and this reduces the people's right to choose other presidential alternatives.

Results and discussion

Election and its regulation in Indonesia

Election is a democratic mechanism that must be passed in choosing a leader as a representative of the people, election history in Indonesia had been conducted every five years, since Indonesia has been eleven times election since 1955 until now. Legislative elections that have been done are general election of 1955, general election of 1971, general election of 1977, general election of 1999, general election of 2004, general election of 2009 and general election of 2014. While President and Vice President elections are general election of 2004, general election of 2009 and general election of 2014. Elections were originally intended to elect members of legislative bodies, namely HoR, Provincial Representatives, and Regional Representatives. After the fourth amendment of Constitution 1945 in 2002, the

Presidential and Vice-Presidential elections that were originally undertaken by the People's Consultative Assembly were agreed to be conducted directly by the people resulting in the election of the President in accordance with the provisions of the 1945 amendment. The members of Regional Representative Council as a new institution in the 1945 amendment were also chosen through elections. In the 1945 Constitution of the Republic of Indonesia (UUD 1945 amendment) the General election is held in Indonesia to elect members of representative institutions, presidents and vice presidents. The Constitution in Article 22E of 1945 Constitution sets out the stipulations on elections in a clear and detailed manner, as follows:

1. Elections should be conducted in a direct, public, free, secret, honest and fair manner every five years;
2. Elections should be held to elect members of the People's Legislative Assembly, the HoR, the President and the Vice-President and the Regional Representatives.
3. Election participants of the HoR and Regional Representative members election are political parties
4. Election participants of the Regional Representative members election are individuals.
5. Elections should be organized by a national, permanent and independent commission.
6. Further provisions on elections are regulated by law.

The provisions of Article 22E of the 1945 Constitution are translated into several laws, namely:

- Law No 15 Year 2011 on general election organizer;
- Law No 8 of 2012 on general election of HoR, Provincial Representatives, and Regional Representatives;
- Law No 42 of 2008 on general election of President and Vice President.

The election of the President and Vice President in Indonesia

In the 1945 Constitution of the State of the Republic of Indonesia the regulation on presidential and vice presidential elections has been stipulated in the provisions of the following articles:

– Article 6A Paragraph (1): The President and Vice President should be elected in a pair directly by the people.

– Article 6A Paragraph (2): A couple of candidates for President and Vice President should be nominated by a party or a coalition of political parties participating in the general election prior to the election.

– Article 6A Paragraph (3): A pair candidate of President and Vice President who get a vote more than 50% of the total votes in an election with at least 20% votes of each province more than half of the provinces in Indonesia is inaugurated as President and Vice President.

The provisions of Article 6A paragraphs (1), (2) and (3) are the legal basis for the election of the President and Vice President in Indonesia. Further provisions of Indonesian presidential election of 2019 are issued in Law No 7 Year 2017 on general election, where the drafting of this law took a long time and a very tough debate, especially regarding to the Presidential Threshold as the requirement of presidential election in which it is stipulated for a party or coalition that propose a presidential candidate should meet 20% seats of HoR or get 25% of the national valid votes in the previous HoR election. The election of the President and Vice President in 2019 would be held simultaneously the election of the HoR, the Provincial Representatives and Regional Representative Council.

The direct election of President and Vice President by the people began in 2004 as the result of an amendment to the 1945 Constitution which was previously elected by the People's Consultative Assembly as the highest State institution and the people's sovereignty holder under the 1945 Constitution. According to Jimly Asshiddiqie, the People's Consultative Assembly is authorized to dismiss the president in the middle of his term for alleged violation of the state's policy, the notion of the state's own policy is very broad, which may include politics and law at

the same time [1, p. 97]. The amendment of the 1945 Constitution was intended to organize state administration system after the fall of the New Order regime, one of which was to strengthen the presidential government system in Indonesia. According to Arend Lijphart, this presidential system has advantages such as; (1) the executive stability is based on the tenure of the President, (2) the election of Government Head by the people could be seen as more democratic than the indirect formal or informal election in parliamentary systems, (3) separation of power means restricted government protection of individual freedom over Government tyranny [4, p. 14].

In line with Arend's opinion, constitutional law expert Sri Soemantri, gives the characteristics of presidential government after the amendment of the 1945 Constitution, which has the following characteristics. First, the President and Vice President are elected in one pair directly by the people. Secondly, the President is no longer responsible to the People's Consultative Assembly because this institution is no longer the executor of people's sovereignty [9, p. 4]. Similarly, Arend Lijphart as cited by Deny Indrayana stated that there are three specific categories of Presidential Government: (1) executive is run by one person rather than a group; (2) an executive is directly elected by the people; and (3) certain term of office could not be revoked or abolished by a vote in parliament [3, p. 375].

Based on several opinions of the expert of constitutional law, it could be concluded that the 1945 Constitution of the Republic of Indonesia adopt a purely presidential system that could be seen by the President and Vice President who are directly elected by the people who strengthen the position of the president without being able to be dropped by the parliamentary institution and directly responsible to the people. Article 6A paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that: "A couple of candidates for President and Vice President should be nominated by a political party and a coalition before the election". This means that the responsibility to select candidates for president and vice president is owned by political parties and also political parties are an important element in a democratic country. A political party that has a majority in parliament or a parliamentary vote

could not fell the elected President and Vice-President even the political party has a role in proposing the President and Vice Presidential candidates.

Based on political overview, during the five years of the presidency, his position is inviolable that is known as a five-year government system called fixed executive. This provision is stated in Article 7 of the 1945 Constitution of the Republic of Indonesia: “The President and Vice President should run the Government for five years and thereafter be eligible to be re-elected in the same once only”. This means that in the presidential system the presidential responsibility form is to the people after his term of office with an indicator that if they are elected for the second term of presidency, it means their accountability is accepted by the people [8, p. 43].

If the President is dismissed in the middle of his duties, is should go through the mechanism stated by the Constitution. The dismissal of the President and Vice President in his/her term of office is provided in Article 7A of the 1945 Constitution of the Republic of Indonesia: “The President and Vice President may be dismissed in their term of office by the People's Consultative Assembly upon the recommendation of the House of Representatives if they are proven to have violated the law in the form of treason, corruption, other serious criminal offenses, or disgraceful acts or no longer qualified as a President and/ or Vice President”. The mechanism of dismissal of the President and Vice President according to the 1945 Constitution of the State of the Republic of Indonesia takes a long time both through political and legal mechanisms, therefore the 1945 Constitution of the Republic of Indonesia accommodates regulation in Article 7B which allows the dismissal of President and Vice President as stipulated in Article 7A of the 1945 Constitution of the Republic of Indonesia. The proposed dismissal of the President and Vice President may be submitted by the HoR to the People's Consultative Assembly which has previously filed an application to the Constitutional Court to be examined, heard and decided upon the opinion of the HoR that the President and Vice President has committed an offense as alleged in Article 7A of the 1945 Constitution of the Republic of Indonesia.

Submission of HoR's request to the Constitutional Court could only be done with the support of at least 2/3 of HoR's members who are present at the plenary session attended by at least 2/3 of the total members. The Constitutional Court is obliged to examine, hear and decide fairly about the opinion of the HoR and if the Constitutional Court decides that the President and Vice President have been proven to do as imposed in Article 7A of the 1945 Constitution of the Republic of Indonesia, the HoR hold a session to continue the proposal of President and Vice President dismissal to the People's Consultative Assembly. The People's Consultative Assembly is obliged to hold a session to decide upon the HoR's proposal. The decision of the People's Consultative Assembly on the proposal for dismissal of the President and / or Vice President must be taken in a plenary session of the People's Consultative Assembly attended by at least 3/4 of the total members and approved at least 2/3 of the attendees. Under this provision the President and Vice-President may be dismissed but dismissed through long political and legal mechanisms, thus the President and Vice President could not be dismissed for unconstitutional reasons.

Simultaneous election of 2019

During this time the elections of the President and the Legislative are separated where the legislative election is done earlier then it is continued with presidential election which was considered the number of party votes in the HoR, because candidates of President and Vice President are proposed by parties or coalitions that get seats in Parliament. Whereas the purpose of the amendment of the 1945 Constitution is to strengthen the presidential system in the implementation of governance in Indonesia. In addition, separate elections are considered inefficient in spite of the enormous costs, it is also resulting the loss of people's constitutional rights and wasting time. This conditions and circumstances rise the idea of simultaneous elections through material testing of Law No 42 of 2008 on general election of President and Vice President (presidential election). The judicial review to the Constitutional Court was conducted by Effendi Gazali questioning and requesting the testing of several articles of Law No 42 of 2008 on general election of President and Vice President. Effendi Gazali requested the examination of Article 3 Paragraph

(5), Article 9, Article 12 Paragraph (1) and (2), Article 14 Paragraph (2) and Article 112 on presidential election related to the two elections namely legislative elections and presidential election. On the basis of the petition, the Constitutional Court ruled Decision Number 14 / PUU-XI / 2013 on the implementation of simultaneous elections begin in 2019. In line with that idea, the presidential elections simultaneously would indeed be more efficient, thus it would save the financing of and reduce horizontal friction of the people.

According to the Constitutional Court, up to now the constitutional administration of the presidential election after the legislative election has proved unable to be a mean of social change in the desired direction and neither strengthening the presidential system under the constitution. The mechanism of checks and balances, especially between the HoR and the President, is not going well [14]. The amendment of the 1945 Constitution has changed the procedure for the presidential election. Prior to the amendment of the 1945 Constitution, the President and Vice President were elected by the People's Consultative Assembly but after the amendment of the 1945 Constitution, the presidential election is done under Article 6A Paragraph (1) of the 1945 Constitution: "President and Vice President are elected in one pair directly by the people". It is also applied to the procedures for proposing the candidates of President and Vice President. If previously, it was regulated in the People's Consultative Assembly Decree. Nowadays, it is regulated in more detail norms of the Constitution, which is further regulated by the law as mentioned in the norms of Article 6 paragraph (1) to paragraph (5) of the 1945 Constitution. Yusril Ihza Mahendra at the time of filing a petition for judicial review contained in the Decision of the Constitutional Court 108 / PUU-XI / 2013, argued that the 1945 Constitution does not specifically regulate which elections are held first, whether the presidential election or the legislative election. However, the provisions of Article 22E paragraphs (1) and (2) indicate that elections are held only once in five years. There is no provision in the 1945 Constitution which states that the election is held twice, or three times in five years.

Presidential threshold policy on Law No 7 of 2017 on general election

Law No 7 of 2017 on general elections provides a requirement for a party or a coalition in nominating their cadres of President and Vice President. The definition of Presidential threshold is a threshold requirement for a political party or a coalition for the submission of a president or vice president. Presidential threshold 20-25% means that political parties or coalitions must have 20% seats of HoR and/or 25% of the national legitimate votes in the previous elections. Those provisions are set forth in Article 222 of Law No 7 of 2017 on general election: “Candidate pairs are nominated by political parties participating in the election that meet the requirements of seats at least 20% (twenty percent) of HoR or 25% (twenty five percent) of the national votes in the previous parliamentary elections”.

The requirement of presidential threshold in this Law creates a pros and cons polemic among political figures or politicians in the HoR with consideration and interest of each political party. For the political parties that obtains many seats in the HoR, the provisions of this law are very beneficial because there is an opportunity to propose their cadres but for a small party who does not have a voice in the HoR or their voice does not meet the requirements of Presidential Threshold, this provision is severely disadvantaged because they could not nominate their cadres to be candidates for President and Vice President. Therefore, there was some parties rejecting the provisions of this presidential threshold, the parties include: *Gerindra*, *Demokrat*, *PKS* and *PAN*.

The presidential threshold would certainly lead to several consequences of elective situation in 2019 that could be predicted earlier. The first, a maximum of President and Vice President pair is 4 pairs. The ideal number of 5 pair candidates with the vote of 20% is almost impossible. However, it is estimated that the number of candidate pairs in the presidential election are three pairs, this is estimated based on the number of platforms or groups existed now, although the political dynamics in Indonesia could change rapidly. The second consequence is the existence of coalition based on the fact that in election of 2014, there was no party earned a vote of $\geq 20\%$. In election of 2014, the top 5 parties were *PDI Perjuangan* (18.95%), *Golkar*

(14.75%), *Gerindra* (11.81%), *Demokrat* (10.19%) and *PKB* (9.04%). The party coalition to carry the President – Vice President pair would certainly consider the political platform and political dynamics record that has ever happened.

The provision of presidential threshold requirement is one of efforts to strengthen the presidential government system, where the position of government could be stable because of support of HoR. In addition, the presidential threshold is intended to improve the quality of candidates for President and Vice President through a selection process conducted by political parties while the removal of the presidential threshold would impact on the executive leadership that would not have the support of parliament, thus it would be difficult to implement the policy. The Government and the HoR as the lawmakers may impose a presidential threshold adjusted to the seats in the HoR in the 2014 legislative elections. The advantages of presidential threshold based on Law No 7 of 2017 on general election are:

a) If the Presidential Threshold is eliminated then there would be a dominant parliamentary tendency because there is no control of the government support, thus weakening the presidential system.

b) If the Presidential Threshold remains high, it would force political parties and coalitions reinforce the presidential system and would select President and Vice President Candidate rigorously.

c) There would be a coalition to strengthen the implementation of government, thus it would build an effective government.

d) The Presidential Threshold in the submission of candidates for President and Vice President is intended to simplify the party system [8, p. 48].

This fact shows that being a candidate for President and Vice President is not easy, because they must meet certain requirements as stipulated in Law No 42 Year 2008. Presidential Candidates are not only proposed by political parties or a coalition, but the political parties or coalition itself must meet the requirement of Presidential Threshold in which a political party or a coalition must full fill at least 20% seats in the HoR or obtain 25% of the national votes in the previous election. Many leaders of political parties that do not meet the presidential threshold take a rejection action

including the judicial review to the Constitutional Court in order to cancel the presidential threshold requirement by the Constitutional Court.

In response to such political conditions, President Joko Widodo stated that the simplification of presidential threshold to 20% in the election is important for Indonesia's political vision in the future. He questioned why Presidential Threshold is currently debated even though it was implemented twice in the election. Simplification is very important for our future political vision [13]. This statement was in response to the disapproval of the Gerindra Party Chairman Prabowo Soebianto who said that the requirement of the presidential threshold was a political joke that deceived the people. Furthermore Joko Widodo said that the Election Law is not merely a government, there is a mechanism of democratic process in the HoR that has been approved, thus if there are parties who are not satisfied with the Election Law should conduct material test to the Constitutional Court as a state law democracy country [13]. The SMRC researcher Sirojudin Abbas stated that presidential threshold is important to strengthen the prevailing presidential system in Indonesia: "The main purpose of the concept of presidential threshold and parliamentary threshold is basically strengthening of presidential system" [7].

According to him, the threshold would affect the simplification of parties in parliament. Therefore, parties that do not pass the threshold would automatically eliminated. Therefore, political power would accumulate in some parties thus the existence of the party would be simple. The simplification of the party in parliament would help the president's performance because he/she would only work with a few parties. Thus, the presidential system would be stronger and more stable and effective because there is little reduction in the burden of political negotiations with parliament [7].

Problems on presidential threshold policy in presidential election of 2019

The implementation of the presidential threshold as stated in Law No 7 Year 2017 on general election would experience obstacles and problems because many leaders of political parties and political observers who questioned the requirements of presidential threshold in general elections of 2019, and it does not rule out the

possibility that the Constitutional Court cancel the existing presidential threshold and if this happens, there would be problems in the implementation of simultaneous election. Observers see that the enactment of the presidential threshold does not reflect a sense of justice and violates the equality in politics where a new party or a small party is not given the opportunity to nominate its cadres in the election of President and Vice President in the election of 2019.

The government's argument about presidential threshold that is needed to strengthen the Presidential system in making the government stable and effective due to the support of votes from parliament is denied by some political observers and experts. Refly Harun stated that presidential threshold as stipulated in Law No 42 of 2008 on presidential election is not based on proper argumentation. The application of presidential threshold to propose president and vice president candidates is a political game of big parties, the application of presidential threshold in the presidential election does not make sense, since the 1945 Constitution of the Republic of Indonesia has stipulated that the elected president is based on 50% plus one vote and spread over 20% of provinces [8, p. 49].

Furthermore, a statement that the application of presidential threshold is to strengthen the presidential system could not be proven. If the president is elected from a small party, the formation of the cabinet would also be a coalition. Another example is the *Demokrat* party with a minority vote in 2009 eventually invited the *Golkar* party into the cabinet even though in the presidential election, they must be compete each other [8]. The argument that a simultaneous general election without a presidential threshold would weaken the presidential system is not appropriate because the fact that as long as President SBY in the second period of 2009, the Government is also not fully supported by the support parties, even its supporting parties always hamper the policies run by the President. Conversely, the political parties in the HoR that are not included in the coalition seem to support the policies run by the President. In addition, there is also a tug of interest between the President and the support party in determining the cabinet structure. President Susilo Bambang Yudhoyono looks hostage in determining his team based on the composition of seat

allocation for his supporters, thus President SBY no longer has full control over his ministers.

According to Syamsuddin Harris, theoretically the legitimacy basis of a president in presidential system scheme is not determined by parliamentary political formation of legislative election results. The presidential and parliamentary institutions in the presidential system are two separate institutions with different legitimacy bases [10]. Thus, the presidential system would remain effective and powerful although simultaneous elections are held without certain requirements such as presidential threshold for a political party bearing a candidate for President and Vice President. The 1945 Constitution of the Republic of Indonesia itself states that the prevailing presidential system is different from other countries which have a strong position of a President in running their Government.

The presidential system holds a strong position in accordance with the 1945 Constitution of the Republic of Indonesia, those are: the President holds the power of Government according to the Constitution (Article 4 paragraph (1) of the 1945 Constitution of the Republic of Indonesia), the President and Vice President are elected by the people (Article 6A Paragraph (1) of the 1945 Constitution of the Republic of Indonesia), the President and Vice President are not accountable to Parliament (but directly responsible to the people as their constituents), the ministers are responsible and dismissed by the President, as well as in relation to Parliament, the President does not comply to Parliament and there is difference between the function of head of state and Head of Government.

Moh. Mahfud M.D. stated that the statement of executive and legislature are equally strong, is often misunderstood to be a real need that the President and Vice President in the presidential system, even before the election, needs the support of the HoR in order to realize the effectiveness of the Government [5]. Hidayat Nur Wachid stated that the implementation of presidential threshold violates the constitution. Hidayat further said that this regulation violates the right of each political party to nominate a president and vice-president candidate as mandated by the constitution. "If the judicial review wins, then the choice would be many and we could also

propose the presidential candidate himself. But if it would be forced to keep 20 percent, then we have to make coalition because it is impossible to submit itself, as *Gerindra* also can not propose for themselves. Every parties could make a coalition because it is permissible by the Law” [12].

The fact that there are many observers and experts of constitutional law who disagree with the requirements of Presidential Threshold and deciding to fill a judicial review to the Constitutional Court against Law No 7 of 2017 on general election and if the Constitutional Court grants a presidential threshold abolition, there would be problems for the government in running the presidential election simultaneously in 2019.

Conclusion

The presidential threshold requirements in Law No 7 Year 2017 on general elections intends to strengthen the presidential government system, build effective governance, and simplify the party system. This good intentions of this law were rejected by leaders of political parties and constitutional law experts who felt the people's right to vote for their leader was castrated because there was no alternative choice for the people. In addition, the policy to apply presidential threshold requirements in Law No 7 of 2017 on general election is considered to violate the constitution and if later the Constitutional Court cancels the presidential threshold Requirement there would be problems in the implementation of the election of the President and Vice President in 2019.

Bibliography:

1. Asshidiqqie J. *Hukum Tata Negara Dan Pilar-Pilar Demokrasi*. Jakarta: Sinar Grafika, 2011.
2. Asshidiqqie J. *Demokrasi dan Hak Azasi Manusia // Material* was presented on the 1st National Conference Corporate Forum for community development. Jakarta, 2015.
3. Indrayana D. *Amandemen UUD 1945: Antara Mitos dan Pembongkaran*. Jakarta: Mizan Pustaka, 2008.

4. Lijphart A. *Sistem Pemerintahan Parlementer dan Presidensial*. Jakarta: Raja Grafindo Persada, 1995.
5. Moh. Mahfud M.D. *Pergaulatan Politik dan Hukum*. Yogyakarta: Gama Media, 1999.
6. Nurtjahyo H. *Filsafat Demokrasi*. Jakarta: Bumi Aksara, 2006.
7. Sirojudin A. *Presidential Threshold Tak Relevan Jika Pemilu 2019 Serentak* [Web resource] // Tirto.id. 05.07.2017. URL: <https://goo.gl/x5Ykkd> (reference date: 19.12.2018).
8. Sodikin. *Pemilu Serentak Pemilu Legislatif dengan Pemilu Presiden dan Wakil Presiden Dengan Penguatan Sistem Presidensial* // *Jurnal Pemilu Rechts Vinding*. 2014. Vol 3. No. 1.
9. Soemantri S. *Kekuasaan dan Sistem Pertanggungjawaban Presiden Pasca Perubahan UUD 1945* // Paper Seminar on Indonesian Government System after the Amendment of UUD 1945 organized by Depkumham in coordination with Airlangga University and Regional Office of Depkumham Jawa Timur. Surabaya, 2004.
10. Syamsuddin H. *Salah Kaprah "Presidential Threshold"* // *Harian Sindo*, 2012.
11. Ver J. *Menata Sistem Penegakan Hukum Pemilu Demokratis Tinjauan Kewenangan Mahkamah Konstitusi Atas Penyelesaian Perselisihan Hasil Pemilu (PHPU)* // *Jurnal Konstitusi*. 2009. Vol 6. No. 3.
12. Wahid H.N. *PKS Dukung Pihak yang akan Gugat UU Pemilu ke MK* [Web resource] // Detikcom. 21.07.2017. URL: <https://goo.gl/CiieVb> (reference date: 19.12.2018).
13. Widodo J. *Presidential Treshold 20% Sejak 2009, Jokowi: Kok Baru Ramai Sekarang?* [Web resource] // Solopos Digital Media. 28.07.2017. URL: <https://goo.gl/J592Zr> (reference date: 19.12.2018).
14. Zaki U. *Pergulatan Politik Menjelang Pemilihan Umum Serentak 2019* [Web resource] // Fakultas Hukum. 06.01.2017. URL: <https://goo.gl/qB5791> (reference date: 19.12.2018).

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