



Constitutional Criticism of the 20% Presidential Threshold in Democracy: Analysis of Constitutional Court Decisions No. 51-52-58/PUU-VI/2008, 53/PUU-XV/2017, and 62/PUU-XXII/2024

Kritik Konstitusional terhadap Presidential Threshold 20% dalam Demokrasi: Analisis Putusan Mahkamah Konstitusi No. 51-52-58/PUU-VI/2008, 53/PUU-XV/2017, dan 62/PUU-XXII/2024

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ABSTRACT

The 20% presidential threshold in Indonesian elections continues to be a constitutional debate. The Constitutional Court through Decisions No. 51-52-59/PUU-VI/2008, 53/PUU-XV/2017, and 62/PUU-XXII/2024 emphasized that the presidential nomination threshold is an open legal policy. However, this regulation has been criticized for limiting political competition, strengthening the oligarchy of large parties, and contradicting the principles of democracy in the 1945 Constitution. This study aims to analyze the constitutional basis of the presidential threshold and its implications for the simultaneous election system. By applying a normative legal study approach through a legislative and case approach, this study evaluates the consistency of the Constitutional Court's arguments and its impact on democracy. The findings of this study describe that the presidential threshold limits the political rights of small parties, reduces the number of potential candidates, and does not always guarantee government stability. In the context of simultaneous elections, this regulation actually creates political inequality between large and small parties. Therefore, it is necessary to reform the presidential nomination system to create elections that are more democratic, competitive, and substantially reflect the sovereignty of the people.

Kata Kunci

Ambang Batas Presiden;

ABSTRAK

Ambang batas pencalonan presiden sebesar 20% dalam pemilu di Indonesia masih menjadi perdebatan konstitusional. Mahkamah Konstitusi melalui Putusan No. 51-



Mahkamah
Konstitusi;
Demokrasi;
Pemilu Serentak;
Konstitusional.

52-59/PUU-VI/2008, 53/PUU-XV/2017, dan 62/PUU-XXII/2024 menegaskan bahwa ambang batas pencalonan presiden merupakan kebijakan hukum yang terbuka. Namun, aturan ini dikritik karena dianggap membatasi kompetisi politik, memperkuat oligarki partai-partai besar, dan bertentangan dengan prinsip-prinsip demokrasi dalam UUD 1945. Penelitian ini bertujuan untuk menganalisis landasan konstitusional ambang batas pencalonan presiden (*presidential threshold*) dan implikasinya terhadap sistem pemilu serentak. Dengan menggunakan pendekatan studi hukum normatif melalui pendekatan perundang-undangan dan pendekatan kasus, penelitian ini mengevaluasi konsistensi argumentasi Mahkamah Konstitusi dan dampaknya terhadap demokrasi. Temuan penelitian ini menggambarkan bahwa ambang batas presidensial membatasi hak politik partai-partai kecil, mengurangi jumlah calon potensial, dan tidak selalu menjamin stabilitas pemerintahan. Dalam konteks pemilu serentak, aturan ini justru menciptakan ketimpangan politik antara partai besar dan kecil. Oleh karena itu, perlu dilakukan reformasi sistem pencalonan presiden untuk menciptakan pemilu yang lebih demokratis, kompetitif, dan secara substansial mencerminkan kedaulatan rakyat.

INTRODUCTION

In a constitutional democracy system, general elections (*pemilu*) serve as the fundamental mechanism for realizing the sovereignty of the people. Article 222 of Law No. 7 of 2017 on General Elections establishes the presidential nomination threshold as a criterion for nominating a president and vice president in Indonesia, which adopts a presidential system. According to this law, to nominate a presidential and vice-presidential candidate pair, a political party or coalition of political parties must obtain at least twenty percent of the seats in the House of Representatives (DPR) or twenty-five percent of the national valid votes.¹

Normatively, this article analyzes Constitutional Court decisions regarding the judicial review of the 20% presidential nomination threshold (*presidential threshold*) in Indonesia's democratic system. The analysis focuses on Constitutional Court Decisions No. 51-52-59/PUU-VI/2008, 53/PUU-XV/2017, and 62/PUU-XXII/2024. Between 2017 and 2024, the Constitutional Court has decided on 33 cases related to the presidential threshold, with the following details: 6 applications were rejected, 24 applications were deemed inadmissible, 1 application was partially granted, and 2 applications were withdrawn.

Applications deemed inadmissible were generally due to the applicant's failure to meet formal requirements, such as: (1) lack of strong legal grounds, (2) errors in identifying the sued party (*error in persona*), (3) formal defects in the

¹ Hukum Online, "Undang-Undang Nomor 7 Tahun 2017 - Pusat Data Hukumonline," hukumonline.com, 2017, <https://tinyurl.com/y2ym8jmy>, diakses tanggal 26 Januari 2025.

application, or (4) jurisdictional violations. Meanwhile, rejected applications indicate that the applicants failed to prove the arguments presented.²

Based on Law No. 7 of 2020 on the Third Amendment to Law No. 24 of 2003 on the Constitutional Court (Constitutional Court Law), Article 56 paragraph (1), the Constitutional Court may declare an application inadmissible if the applicant or the application does not meet the requirements stipulated in Article 50 (legal standing of the applicant) and Article 51 (application requirements). If these requirements are met, the Constitutional Court will proceed to examine the substance of the case.³ However, in practice, the legal standing of the applicant is often only clarified after an in-depth examination of the substance of the case. If the applicant is found to lack sufficient legal standing, the application will be declared inadmissible or “niet ontvankelijk verklaard”.⁴

To gain a deeper understanding of this issue, several Constitutional Court (MK) decisions related to the “Presidential Threshold” provisions, specifically three key decisions that serve as landmark cases in the review of this regulation, include: “Constitutional Court Decisions No. 51-52-59/PUU-VI/2008, No. 53/PUU-XV/2017, and No. 62/PUU-XXII/2024, which can be referenced as follows.”

Tabel 1
Analysis of Constitutional Court Decisions on the 20% Presidential Threshold

Decision Number	Applicant	Legal Issue	Constitutional Court's Considerations	Decision Status
51-52-59/PUU-VI/2008	Saurip Kadi; Januardi S., Hariwibowo, S.H; DPP Partai Hanura (Jenderal TNI (Purn) H. Wiranto, Yus Usman Sumanegara); PDP (Roy B.B. Janis, T.); DPP PIS (Drs. H. M. Jusuf Syakir); DPP PPRN (Amelia Yani); DPP Partai Republika Nusantara (Drs. H. Syahrir)	Constitutional review of “Article 3 paragraph (5) and Article 9 of Law No. 42 of 2008 on the General Election of the President and Vice President.”	The Court stated that the policy regarding the presidential threshold is an open legal policy within the authority of lawmakers to create a law. Additionally, the Court considered that holding legislative and presidential elections non-simultaneously does not contradict the 1945 Constitution.	Rejected

² Nasiatul Munawaroh. “Perbedaan Gugatan Dikabulkan, Ditolak, Dan Tidak Dapat Diterima,” Klinik Hukumonline, 2024, <https://www.hukumonline.com/klinik/a/gugatan-dikabulkan-ditolak-dan-tidak-dapat-diterima-cl3157/>, diakses tanggal 25 Januari 2025.

³ Ahmad Fadlil Sumadi. (2011). Hukum Acara Mahkamah Konstitusi Dalam Teori Dan Praktik. *Jurnal Konstitusi*, 8(6): 849-879. <https://doi.org/10.31078/jk861>.

⁴ Jimly Asshiddiqie. (2006). Hukum Acara Pengujian Undang-Undang. (Jakarta: Kerjasama Konstitusi Press dengan PT Syaamil Cipta Media), http://mitrahukum.org/wp-content/uploads/2012/09/Hukum_Acara_PUU-Full.pdf, diakses tanggal 1 Februari 2025.

Decision Number	Applicant	Legal Issue	Constitutional Court's Considerations	Decision Status
53/PUU-XV/2017	Effendi Gazali, Deddy S. C. S., Siti Zuhro, Anita Rachmawati, Arief Budiman	Constitutional review of "Article 173 paragraph (1) and paragraph (3) of Law No. 7 of 2017 on General Elections regarding the verification of political parties participating in the election."	The Court emphasized that the phrase "has been established" in Article 173 paragraph (1) lacks binding legal force, meaning all parties, whether old or new, must be verified to participate in the election. Additionally, Article 173 paragraph (3) was also declared to lack binding legal force.	Partially Granted
62/PUU-XXII/2024	Enika Maya Oktavia, Rizki Maulana Syafei, Faisal Nasirul Haq, Tsalis Khoirul Fatna	Constitutional review of "Article 222 of Law No. 7 of 2017 on General Elections regarding the presidential and vice-presidential nomination threshold (presidential threshold)."	The Court stated that the provisions regarding the presidential and vice-presidential nomination threshold outlined in "Article 222 of the Election Law" contradict the "1945 Constitution" and lack binding legal force, thus the presidential threshold was abolished.	Granted

Source: Compiled by the Author (2025) from the Constitutional Court of the Republic of Indonesia

Interestingly, the Constitutional Court (MK) tends to limit citizens' access to file judicial reviews related to the "presidential threshold." Through Constitutional Court Decisions No. 66/PUU-XIX/2021 and No. 62/PUU-XXII/2024, the Court clarified that only participating parties or party coalitions have the right to submit applications related to the presidential threshold. As a result, citizens are considered to lack a direct connection (causal verband) between the right to vote or "right to vote" and the right to be a candidate or "right to be a candidate" in the context of the presidential threshold.

Regarding simultaneous elections, questions arise about the relevance of Constitutional Court Decision No. 51-52-59/PUU-VI/2008, which served as a reference for the constitutional review of the Election Law. In Constitutional Court Decision No. 53/PUU-XV/2017, the Court reaffirmed its consistency with the following arguments:

1. Legal Consideration: The "presidential threshold" is a legitimate legislative policy or "legal policy."

2. Theory: This policy strengthens Severus strengthens the presidential system and prevents practices resembling a parliamentary system.
3. Socio-Political Argument: The threshold strengthens the socio-political legitimacy of the President and societal representation.
4. Constitutional Reinforcement: In the 2024 Simultaneous Elections, the threshold is considered a tool to create political and governmental stability.
5. Legal Affirmation: The Court reaffirmed that Article 222 of Law No. 7/2017 remains valid as long as no decision declares it contrary to the 1945 Constitution.

Through these points, the Constitutional Court (MK) maintains that the presidential threshold is a constitutional legal policy and does not contradict the "1945 Constitution".

Simultaneous elections create inconsistencies in the application of the presidential threshold, as the threshold is still calculated based on the results of the previous legislative election, which is no longer relevant.⁵ This not only contradicts legal logic but also creates political injustice for small and new parties.

"Constitutional Court Decision No. 53/PUU-XV/2017", which rejected the abolition of the threshold, further exacerbates this issue. The Court stated that the threshold is part of an open legal policy to strengthen the presidential system. However, this view is considered contrary to the spirit of democracy and "Article 6A of the 1945 Constitution", which ensures equal rights for all parties in nominating a president and vice president. In practice, the threshold strengthens the dominance of large parties and pragmatic coalitions, weakening healthy political competition.

Sulardi and Febriansyah Ramadhan (2019) added that the threshold in simultaneous elections triggers political polarization that damages social cohesion, as observed in the last two elections. The threshold also hinders the emergence of new candidates and limits political participation. From a constitutional perspective, the complete abolition of the threshold is deemed necessary to create a more democratic, fair, and inclusive election system.⁶ The proposed solution is the complete removal of the presidential threshold. This would give large and small parties an equal opportunity to nominate presidential and vice-presidential

⁵ Ganjar Prima Anggara, M. Ali Safa'at, & Tunggul Anshari. (2019). Transformasi Model Pemilu Serentak Di Indonesia Tahun 2019 Pasca Putusan Mk Nomor 14/PUU-XI/2013. *Jurnal Mahasiswa Fakultas Hukum Universitas Brawijaya*, 14, <https://www.neliti.com/id/publications/35188/transformasi-model-pemilu-serentak-di-indonesia-tahun-2019-pasca-putusan-mk-nomo>.

⁶ Sulardi & Febriansyah Ramadhan. (2019). Presidential Threshold in the Presidential Election: A Democratic and Constitutional Study. *International Conference on Indonesian Legal Studies* (2019): 149–56, <https://doi.org/10.2991/icils-19.2019.27>.

candidates, fostering healthy and fair political competition in accordance with the mandate of the “1945 Constitution”.⁷ This article examines the concept of the presidential threshold in “Article 222 of Law No. 7 of 2017 concerning General Elections,” specifically its relation to the principle of presidentialism within the “1945 Constitution.” “Article 6A paragraph (2) of the 1945 Constitution” stipulates that presidential and vice-presidential candidates must be nominated by a political party or a coalition of parties.⁸ However, the threshold of 20% of DPR seats or 25% of the national vote raises a constitutional issue.

Fathullah (2023) asserts that a presidential system should affirm the separation of powers between the executive and legislative branches, with the president determined directly by the people without dependence on the parliament. However, the presidential threshold instead links presidential candidacy to the results of previous legislative elections. This is considered contrary to the fundamental principles of presidentialism and popular sovereignty as enshrined in “Article 1 paragraph (2) of the 1945 Constitution”.⁹

The author also argues that this threshold reflects an authoritarian legal politics, as it prioritizes the interests of large parties over ensuring political fairness. Consequently, smaller parties and independent candidates find it difficult to compete, reducing political diversity and narrowing the choices available to the public. With the principle of checks and balances, a directly elected president should not need to rely on parliamentary support. However, the presidential threshold obscures this principle. This research aims to critique the legal arguments within the Constitutional Court’s decision regarding the presidential threshold, particularly from the perspective of legal logic and its political implications. This article offers a critical perspective on the Constitutional Court’s ruling, analyzing the impact of the presidential threshold on the presidential system and the democratic values enshrined in the 1945 Constitution. It is hoped that this study will evaluate the legal and political implications of the presidential nomination threshold within Indonesia’s democratic system. Several research questions are addressed, namely: 1. “What is the primary critique of the presidential threshold from the perspective of substantive democracy?” 2. “Why is the Constitutional Court’s view that the threshold enhances presidential legitimacy considered inaccurate?” 3. “What is the impact of the presidential threshold on political

⁷ Umarwan Sutopo, Achmad Hasan Basri, & Hilman Rosyidi. (2024). Presidential Threshold in The 2024 Presidential Elections: Implications for The Benefits of Democracy In Indonesia. *Justicia Islamica*, 21(1), 155–78, <https://doi.org/10.21154/justicia.v21i1.7577>.

⁸ Setjen DPR RI, “J.D.I.H. - Undang-Undang Dasar 1945 Pasal 6A Dan Pasal 1 Ayat (2) - Dewan Perwakilan Rakyat.” DPR RI (n.d.), <https://www.dpr.go.id/jdih/uu1945>.

⁹ Fathullah. (2023). Examining the Presidential Threshold in Law No. 7 of 2017 in Terms of Legal Politics in Indonesia. *Jurnal Ruang Hukum*, 2(1), 19–28, <https://doi.org/10.58222/juruh.v2i1.228>.

injustice in simultaneous elections?" A more detailed discussion will be presented in the Discussion Chapter.

RESEARCH METHODS

This research employs a normative legal study approach through a case approach and a statute approach.¹⁰ The case approach was selected to analyze the ratio decidendi in depth within three Constitutional Court decisions: Decisions "No. 51-52-59/PUU-VI/2008, 53/PUU-XV/2017, and 62/PUU-XXII/2024 concerning the constitutionality of the presidential threshold."¹¹ Meanwhile, the statute approach is applied to examine the hierarchy and harmonization of norms between the 1945 Constitution, the Election Law, and regulations related to the presidential threshold within Indonesia's democratic system.

The research data consists of three types of legal materials focused on the object of study, namely Constitutional Court decisions. Primary legal materials include the three Constitutional Court decisions analyzed, the "1945 Constitution, particularly Article 6A," "Law No. 7 of 2017 on General Elections, particularly Article 222 on the presidential threshold," and various related policies. Secondary legal materials include Constitutional Court hearing minutes, constitutional law journals discussing the presidential threshold, and opinions of constitutional law experts on the three decisions. Tertiary legal materials consist of dictionaries and legal encyclopedias used to ensure the accuracy of interpreting technical terms in the Constitutional Court decisions.

Data analysis was conducted using a decision analysis method focusing on three main aspects. First, analyzing the arguments of the applicants and the judges' considerations in the three Constitutional Court decisions to identify patterns of legal reasoning related to the presidential threshold. Second, comparing the ratio decidendi across the decisions to assess the consistency of the Constitutional Court's stance on the constitutionality of the 20% presidential threshold. Third, analyzing the implications of these decisions on the development of Indonesian democracy, particularly in the context of simultaneous elections. The validity of the research is ensured through triangulation by comparing the legal considerations in the three decisions, confirming with constitutional law doctrines, and analyzing the views of constitutional law experts on the decisions.

¹⁰ Pujiati. (2024). *Metode Penelitian Yuridis Normatif Di Bidang Hukum*. (Jakarta: Deepublish), <https://penerbitdeepublish.com/metode-penelitian-yuridis-normatif/>, diakses tanggal 1 Maret 2025.

¹¹ Rumawi, Muhamad Ali, Abdul Syukur & Supianto. (2024). The Ratio Decidendi of the Decision of the Constitutional Court of the Republic of Indonesia from the Perspective of Legal Positivism. *Vestnik of Saint Petersburg University Law*, 15(2), 483–492, <https://doi.org/10.21638/spbu14.2024.211>.

RESULT AND DISCUSSION

In a constitutional democracy system, elections should serve as the primary mechanism for realizing the sovereignty of the people in a fair and inclusive manner. However, the implementation of the 20% presidential threshold has often sparked debate as it is deemed to limit the rights of political parties to nominate a president and reduce the range of choices for voters. The Constitutional Court, in several of its decisions, has upheld this regulation, arguing that it strengthens the presidential system and enhances government stability. Nevertheless, there are significant criticisms questioning whether the presidential threshold is truly necessary in the simultaneous election system currently implemented in Indonesia.

This section will elaborate on various aspects related to the presidential threshold by reviewing the argumentative basis used by the Constitutional Court and its implications for democracy and political justice. First, this study will evaluate substantive criticisms of the presidential threshold from the perspective of constitutional democracy. Next, it will analyze how the Constitutional Court links this regulation to the legitimacy of the elected president. Finally, this study will discuss the impact of the presidential threshold on political justice in the simultaneous election system, particularly in relation to the opportunities for small political parties and independent candidates in the presidential nomination process.

Substantive Criticism of the Presidential Threshold from the Perspective of Constitutional Democracy

The issue of the “presidential threshold or presidential nomination threshold” has been a long-standing debate in Indonesia’s election system. According to this regulation, a political party or coalition must have 20% of the seats in the House of Representatives (DPR) or 25% of the national votes, based on the previous election results, to nominate a presidential and vice-presidential candidate pair. Although the Constitutional Court (MK) has repeatedly emphasized that the threshold is necessary to protect national stability and prevent political fragmentation, many parties argue that this regulation restricts democracy, particularly for small parties and independent candidates who struggle to meet the nomination threshold.

This restriction increases political costs, where large parties impose high political rents, while small parties lack the ability to nominate candidates. As a result, presidential and vice-presidential candidates have little choice but to align with large parties. This contradicts the principles of democracy that uphold equality and openness. In democratic theory, elections should provide equal opportunities for all participants.¹² However, the presidential threshold limits competition and

¹² Eduardo Mello & Matias Spektor. (2018). Brazil: The Costs of Multiparty Presidentialism,” *Journal of Democracy*, 29(2), 113–127, <https://doi.org/10.1353/jod.2018.0031>.

narrows the people’s choices, allowing only large parties to have full control over presidential nominations. Furthermore, this regulation contradicts Article 6A of the 1945 Constitution, which stipulates that candidate pairs can be nominated by political parties and their coalitions without additional requirements regarding a threshold of parliamentary support.¹³ The findings of this study confirm that the presidential threshold needs to be reviewed to align more closely with the principles of democracy that uphold openness and healthy competition.

If the goal is to create government stability, a fairer approach could be applied, such as lowering the threshold or abolishing it entirely and replacing it with a more competitive selection mechanism. This study also shows that the threshold does not always guarantee government effectiveness but can instead strengthen political oligarchy and narrow the space for political competition.¹⁴ Therefore, the findings of this study can serve as a recommendation for policymakers to consider reforming the presidential nomination system to be more democratic and inclusive.

Based on Giovanni Sartori’s theory, a political scientist who introduced the concept of political/constitutional engineering, the system of rewards and punishments is considered an effective tool in a socio-political context.¹⁵ The author concludes that political support for the President does not entirely stem from the presidential threshold system but is more derived from pragmatic steps taken by the President. These steps involve the use of various presidential instruments (Presidential’s Toolbox) in building strategic relationships with both supporting and opposing parties, as well as non-party actors, including businesspeople and volunteers.

To better understand the recommendations regarding the presidential threshold and the multiparty system in the context of Indonesian democracy, the following table summarizes the aspects, negative impacts of the presidential threshold, and alternative solutions related to these aspects, including political rent and the potential reform of the nomination system.

Tabel 2

Main Criticisms of the Presidential Threshold

Aspect	Negative Impact of Presidential Threshold	Alternative Solution
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¹³ Scott Mainwaring. (1993). Presidentialism, Multipartism, and Democracy: The Difficult Combination. *Comparative Political Studies*, 26(2), 198–228, <https://doi.org/10.1177/0010414093026002003>.

¹⁴ Dirk Tomsa. (2018). Regime Resilience and Presidential Politics in Indonesia. *Contemporary Politics*, 24(3), 266–285, <https://doi.org/10.1080/13569775.2017.1413502>.

¹⁵ G. Ordeshook, P. C., & Sartori. (1995). Comparative Constitutional Engineering: An Inquiry into Structures, Incentives and Outcomes. *Political Science Quarterly. JSTOR Political Science Quarterly*, 110(2), 316, <https://doi.org/https://doi:10.2307/2152371>.

Aspect	Negative Impact of Presidential Threshold	Alternative Solution
Democracy & Representation	Limits the rights of small parties and independent candidates in presidential nominations	Abolition of the threshold or lowering the nomination threshold
Presidential Legitimacy	Political support is more based on pragmatic negotiations rather than electoral legitimacy	Strengthening the checks and balances system without nomination restrictions
Political Fragmentation	Strengthens the dominance of large parties, narrowing the people's choices in elections	A more open selection system for all parties
Political Economy Impact	Increases political costs, creating transactional politics and oligarchy	Reform of party and campaign funding systems

Source: Compiled by the Author (2025) from various research findings and sources

The presidential threshold system, if not reviewed, has the potential to further narrow the space for political competition and hinder the development of a more inclusive democracy. Therefore, a comprehensive evaluation of the relevance of this regulation is necessary, particularly in the context of simultaneous elections, which should provide equal opportunities for all candidates.

Analysis of the Constitutional Court's Argumentation on the Correlation Between the Presidential Threshold and Presidential Legitimacy

The Constitutional Court (MK), in various decisions such as Decision No. 51-52-59/PUU-VI/2008, No. 53/PUU-XV/2017, and No. 62/PUU-XXII/2024, has affirmed that the "presidential threshold" is an "open legal policy".¹⁶ The Court argues that this regulation aims to strengthen the presidential system and ensure political stability by preventing party fragmentation. With the threshold, only parties or coalitions with strong support can nominate a president, thereby expecting the resulting government to be more stable and effective.

The MK also considers that the presidential threshold helps simplify the number of political parties in Indonesia. With fewer parties nominating candidates, the election process is expected to be more focused, reduce political polarization, and strengthen the legitimacy of the elected President. According to the MK, if a president is supported by a parliamentary majority, they can more easily implement policies without excessive political obstacles.

However, this argumentation has faced criticism. Research indicates that the relationship between the President and supporting parties is not always linear. For example, in the 2009 and 2014 elections, the Golkar Party maintained significant

¹⁶ "Mahkamah Konstitusi. Putusan Mahkamah Konstitusi No. 51-52-59/PUU-XI/2008 (2008), 29-30. Lihat juga, Mahkamah Konstitusi Republik Indonesia, Putusan Mahkamah Konstitusi No. 53/PUU-XV/2017 (2017), 30-31. Dan lihat juga, Mahkamah Konstitusi Republik Indonesia, Putusan Mahkamah Konstitusi No. 62/PUU-XXII/2024 (2024), mulai dari halaman 1."

influence in parliament despite not being the primary supporter of the President. Similarly, in the 2019 election, the Gerindra Party played a strategic role in the government coalition despite initially being in the opposition. This phenomenon suggests that the presidential threshold does not always guarantee political stability, as parliamentary dynamics remain fluid and depend on post-election political negotiations.

Furthermore, the presidential threshold is criticized for reinforcing pragmatic political negotiations among large parties. Zimerman and Pinheiro (2020), in their study on presidentialism in Brazil, found that similar regulations create opportunities for political rent-seeking, where large parties leverage their position for political and economic gains.¹⁷ This situation also occurs in Indonesia, where large parties control negotiations for cabinet positions and other strategic policies. Consequently, this regulation does not genuinely simplify the party system but instead strengthens political oligarchy.

From the perspective of the presidential system, the MK's argumentation about the presidential threshold is also considered less relevant. The fundamental principle of a presidential system is the separation of powers, where the President is directly elected by the people and does not depend on parliament to govern.¹⁸ Juan J. Linz (1990), in his study on the stability of presidential systems, stated that a president's legitimacy is not determined by the extent of party support but by their capacity to build political consensus and engage in communication with various stakeholders.¹⁹

In practice, government effectiveness is more determined by the President's ability to build coalitions and conduct political negotiations after being elected, rather than by the presidential threshold governing nominations.²⁰ Therefore, the argument that this regulation strengthens the presidential system needs reevaluation, particularly in the context of a more open and competitive democracy.

A juridical analysis of the correlation between the presidential threshold and the mechanism for reducing the number of political parties in the legislative sphere

¹⁷ Artur Zimerman & Flávio Pinheiro. (2020). Appearances Can Be Deceptive: Political Polarization, Agrarian Policy, and Coalitional Presidentialism in Brazil. *Politics and Policy*, 48(2), 339–71, <https://doi.org/10.1111/polp.12345>.

¹⁸ Andrew Heywood. *Politics*, 5th Ed. *Dokumen. Pub*, 2014, 312, <https://tacpdf.com/nigeria-family-planning-blueprint-health-policy-project.html>.

¹⁹ Juan J. Linz & Juan J. Linz. (1990). The Perils of Presidentialism THE PERILS OF PRESIDENTIALISM. *Journal of Democracy*, 1(1), 51–69. <https://muse.jhu.edu/article/225694>.

²⁰ Richard E. Neustadt. (1991). Presidential Power and the Modern Presidents: The Politics of Leadership from Roosevelt to Reagan. *Choice Reviews Online*, 28(08), 28-4783-28-4783, <https://doi.org/10.5860/choice.28-4783>.

shows the ineffectiveness of this constitutional instrument.²¹ Comparatively, the political landscape of general elections reveals non-linear fluctuations. In the 2009 election, the number of parties decreased from 17 to 9, but in the 2014 election, it increased to 10 parties, returning to the original state in the 2019 election. The normative perspective on the parliamentary threshold shows an escalation from 2.5% to 3.5%, and subsequently to 4%. If the parliamentary threshold alone has proven ineffective in simplifying the party system in parliament, the effectiveness of the presidential threshold in achieving similar goals is also questionable.²²

Theoretically, an increase in the threshold is expected to reduce the number of political parties, as explained by the Constitutional Court (MK).²³ However, in the context of the 2019 election, there was a constitutional anomaly where parties such as PSI, Perindo, and PKPI, despite not meeting the parliamentary threshold, integrated themselves into the government coalition structure, even securing strategic positions such as Deputy Minister. Furthermore, internal party conflicts caused by epistemological divergence regarding candidate pairs have led to systemic fragmentation, which contradicts the original goal of the presidential threshold to simplify the political system.

Tabel 3
**Comparison Presidential Threshold and Parliamentary Threshold from 20 October 20, 2014-
October 20, 2024**

Election Year	Presidential threshold		Parliamentary Threshold	Number of Parties in Parliament
	DPR	National		
2019	20%	25%	2,5%	10
2024	20%	25%	4%	9

Source: Compiled by the Author (2025) from various sources

The parliamentary majority dominated by government-supporting parties can reduce the effectiveness of the opposition in governance. In certain situations, the opposition may even lose its influence due to the formation of political cartels in parliament. In line with Slater's view (2004), large government-supporting alliances tend to weaken or even eliminate the role of the opposition.²⁴ Abra's study (2022)

²¹ Jose Antonio Cheibub. (2006). *Presidentialism, Parliamentarism, and Democracy. Of Cambridge Studies in Comparative Politics. Cambridge: Cambridge University Press*, 49, <https://doi.org/https://doi.org/10.1017/CBO9780511813344>.

²² Jerry Indrawan & M. Prakoso Aji. (2020). *Penyederhanaan Partai Politik Melalui Parliamentary Threshold: Pelanggaran Sistematis Terhadap Kedaulatan Rakyat. Jurnal Penelitian Politik*, 16(2), 155-166. <https://doi.org/https://doi.org/10.14203/jpp.v16i2.802>.

²³ R. Siti Zuhro. (2019). *Demokrasi Dan Pemilu Presiden 2019. Jurnal Ilmu Penelitian Politik*, 16(1), 69-78. <https://doi.org/https://doi.org/10.14203/jpp.v16i1.782>.

²⁴ Dan Slater. (2004). *Indonesia's Accountability Trap: Party Cartels and Presidential Power After Democratic Transition. Indonesia*, 78(78), 61-92. <https://www.jstor.org/stable/3351288>.

also found that, although the multiparty system is effective in promoting the presidential system, the existence of large coalitions actually weakens the opposition and gives rise to a phenomenon called the accountability trap.²⁵

The weakening of the opposition impacts the imbalance in the principle of checks and balances, where the power between the opposition and government supporters becomes disproportionate. This is evident, for example, in the enactment of the “Revision of the Anti-Corruption Commission Law” and the “Omnibus Law on Job Creation,” which demonstrate the difficulty of the opposition in counterbalancing the government’s power. With projections of political power post-2024 elections, the opposition’s role in performing oversight functions is expected to weaken further.

Several parties criticize that the presidential threshold limits political participation and voter choices. According to Asep Wijaya et al. (2020), a high threshold can hinder the emergence of independent candidates or those from small parties, thereby reducing healthy competition in presidential elections.²⁶ This criticism highlights that, while stability is important, political openness must also be maintained to ensure an inclusive democracy.

Overall, the effectiveness of the presidential threshold in enhancing political support for the president in parliament remains a matter of debate. Empirical data shows a correlation between the threshold and parliamentary support, but its impact on the quality of democracy requires further evaluation. Therefore, the establishment of the presidential threshold must consider a balance between the need for governmental stability and the democratic principle of providing space for various candidates to compete fairly.

Based on the various perspectives above, it can be concluded that the presidential threshold has a complex impact on Indonesia’s political system. While its aim of creating political stability is understandable, its implementation needs evaluation to avoid sacrificing the principles of democracy and broad political representation. Recommendations from various parties include lowering the threshold or even abolishing it to provide greater opportunities for inclusive political participation.

²⁵ Emy Hajar Abra. (2022). Problematika Sistem multipartai Dalam Bingkai Konstitusi Indonesia. *Jurnal Bawaslu Provinsi Kepulauan Riau*, 4(2), 121-131. <https://doi.org/https://doi.org/10.55108/jbk.v4i2.215>.

²⁶ Asep Wijaya, Rosmini, & Poppilea Erwinta. (2020). Problematika Hukum Penerapan Presidential Threshold Dalam Pemilihan Umum Di Indonesia. *Risalah Hukum*, 16(2), 45–54. <https://doi.org/10.30872/risalah.v16i1.316>.

Impact of the Presidential Threshold on Political Justice in the Simultaneous Election System

The 20% presidential threshold provision in simultaneous elections has become a crucial issue in Indonesian politics. The Constitutional Court (MK), through “Decisions No. 51-52-59/PUU-VI/2008, 53/PUU-XV/2017, and 62/PUU-XXII/2024”, has affirmed the constitutionality of this regulation. However, in practice, the presidential threshold has implications for political justice, particularly for small political parties and independent candidates. This subsection will discuss the implications of the presidential threshold regulation on political justice within the simultaneous election system.

One of the primary impacts of the presidential threshold is the limited access for political parties to nominate presidential and vice-presidential candidate pairs. Through the 20% DPR seat or 25% national valid vote threshold, only large parties and coalitions can nominate candidates. Small parties that have significant regional support but lack sufficient DPR seats are hindered from competing. This has the potential to reduce political pluralism in elections.

The presidential threshold also strengthens the dominance of established parties and impedes the emergence of new parties and independent candidates. This system contradicts the principle of political justice because it only provides opportunities for well-established parties to nominate candidates. As a result, political innovation from new parties and broader representation of the people’s voices become limited. The Constitutional Court’s decisions that continue to uphold this threshold indicate that the election system still favors existing political elites.

With the presidential threshold regulation, the number of candidates in presidential elections becomes very limited. In several election simulations, only two or three candidate pairs can compete, thus reducing alternatives for voters. The potential for a single candidate to emerge also increases, as has occurred in several regions during local elections (*Pilkada*). This can diminish the quality of democracy and the political choices available to the people.

Tabel 4
Analysis of the Impact of the Presidential Threshold

Aspect	Positive Impact	Negative Impact
Presidential Threshold	• Maintains government stability • Prevents political fragmentation	• Limits small parties and independent candidates • Increases political costs
Multiparty System	• Represents diverse societal aspirations • Encourages political participation	• Causes executive-legislative deadlock • Strengthens polarization
Political Rent (<i>Mahar</i>)	• Enables large parties to	• Makes it difficult for small

Aspect	Positive Impact	Negative Impact
<i>Politik)</i>	gather resources	parties to compete • Strengthens political oligarchy
Reform of the Nomination System	• Enhances openness and healthy competition • Expands participation	• Potentially creates instability if not well-designed
Conformity with the Constitution	–	• Contradicts Article 6A of the 1945 Constitution

Source: Compiled by the Author (2025) based on research findings and Giovanni Sartori's theory.

Thus, although the presidential threshold is considered an effort to create political stability, this regulation actually creates injustice in the democratic system. Reform of the presidential nomination system is necessary to ensure that all parties, both large and small, have equal opportunities to compete, thereby realizing the principles of an inclusive and fair democracy.

CONCLUSION

Based on the analysis of Constitutional Court (MK) decisions regarding the presidential threshold, it can be concluded that this regulation is not fully aligned with the principles of open and inclusive democracy. The 20% threshold limits the political participation of small parties, reduces healthy competition, and strengthens the oligarchy of large parties. Furthermore, the implementation of the “presidential threshold” in simultaneous elections creates an imbalance in the presidential system, as it links executive elections to the results of the previous legislative election.

In practice, the presidential threshold fosters more pragmatic political negotiations among parties than it strengthens government stability. Additionally, this policy has the potential to reduce the political representation of the people by limiting the number of presidential candidates. The Constitutional Court's decisions that uphold this threshold indicate that the election system still favors large parties over providing fair opportunities for all election participants.

As a solution, reform of the presidential nomination system should be considered, either through revising the threshold or gradually abolishing it. Adjusting this policy could provide greater opportunities for small parties, independent candidates, and enhance healthy political competition. Thus, presidential elections in Indonesia can better reflect the principles of substantive democracy that prioritize political justice and broader representation for the people.

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