

## ABSTRAK

Adanya aturan mengenai *presidential threshold* yang diberlakukan sebagai salah satu syarat pencalonan terhadap pasangan Presiden dan Wakil Presiden menuai banyak kontroversi. Selama ini, *Presidential threshold* yang dipahami yaitu syarat dukungan minimal berdasarkan jumlah kursi atau suara hasil pemilihan legislatif nasional terhadap pemilu presiden dan wakil presiden. Pemberlakuan yang di mulai sejak pemilihan umum tahun 2004 disertai dengan banyaknya permohonan gugatan yang diajukan ke Mahkamah Konstitusi oleh berbagai pihak. Sejauh ini, penulis mencatat mahkamah memutuskan total 21 perkara uji materi syarat ambang batas pencalonan presiden dan wakil presiden atau *presidential threshold* selama lima tahun, yaitu sejak 2017 sampai 2022. Total dalam lima tahun, sebanyak 17 permohonan tak dapat diterima, sedangkan tiga lainnya ditolak dan satu perkara dihentikan karena pemohon meninggal serta terdapat 6 permohonan yang dinyatakan tidak dapat diterima karena *legal standing*. Namun, Mahkamah Konstitusi tetap pada pendiriannya yang menyatakan bahwa *presidential threshold* adalah kebijakan hukum terbuka (*open legal policy*) dan dinyatakan konstitusional. Sehingga pemilu presiden dan wakil presiden tahun 2019 dengan adanya *presidential threshold* dan dilaksanakan secara serentak menjadi permasalahan yang menarik untuk diteliti.

Berdasarkan penjabaran tersebut, penulis melakukan penelitian dengan metode penelitian hukum normatif atau biasa disebut penelitian kepustakaan (*library research*) serta dikombinasikan wawancara untuk memperkaya analisis dengan untuk mengkonfirmasi terhadap data sekunder yang di dapatkan. Selain menggunakan bahan-bahan kepustakaan, penulis juga melakukan analisis terhadap peraturan perundang-undangan serta putusan-putusan Mahkamah Konstitusi.

Penelitian ini menghasilkan kesimpulan bahwa pemberlakuan *presidential threshold* telah bertentangan dengan logika sistem pemerintahan presidensial, bertentangan dengan konstitusi, rentan terhadap politik transaksional, mencederai kedaulatan rakyat serta menimbulkan polarisasi dan disharmoni di dalam masyarakat. Hal ini disebabkan karena pembentukannya sarat akan kepentingan-kepentingan politik pembentuk undang-undang yang kebanyakan merupakan anggota partai politik yang diuntungkan oleh adanya aturan tersebut. Dengan demikian, *presidential threshold* sudah selayaknya dihapuskan sebab banyak menimbulkan ketidakadilan, ketidakpastian, dan menjadi tidak relevan dengan model pemilu serentak. Selain itu, penerapan *presidential threshold* tidak sejalan dengan semangat amendemen UUD NRI Tahun 1945 yang ingin memperkuat sistem pemerintahan presidensial.

Kata Kunci :

Pemilihan Umum Tahun 2019, *Presidential Threshold*, Syarat Pengusungan Pasangan Calon Presiden dan Wakil Presiden.

## **ABSTRACT**

*The existence of a rule regarding the presidential threshold that is enforced as one of the conditions for the nomination of the presidential and vice presidential pairs has generated a lot of controversy. So far, the Presidential threshold that is understood is the minimum support requirement based on the number of seats or votes from the results of the national legislative elections for the presidential and vice presidential elections. The implementation which began in the 2004 general election, was accompanied by a number of lawsuits filed with the Constitutional Court by various parties. So far, the author noted that the court decided a total of 21 cases of judicial review of the presidential and vice presidential nomination threshold requirements for five years, namely from 2017 to 2022. Total in five years, 17 applications could not be accepted, while the other three were rejected and one case was terminated because the applicant died and there were 6 applications which were declared unacceptable due to legal standing. However, the Constitutional Court remains in its stance which states that the presidential threshold is an open legal policy and declared constitutional. So that the presidential and vice presidential elections in 2019 with the presidential threshold and carried out simultaneously become an interesting problem to study.*

*Based on this description, the authors conducted research using normative legal research methods or commonly called library research and combined interviews to enrich the analysis by confirming the secondary data obtained. In addition to using library materials, the author also analyzes the laws and regulations and the decisions of the Constitutional Court.*

*This study concludes that the implementation of the presidential threshold has been contrary to the logic of the presidential government system, contrary to the constitution, vulnerable to transactional politics, injuring people's sovereignty and causing polarization and disharmony in society. This is because its formation is full of the political interests of legislators, most of whom are members of political parties who benefit from the existence of these regulations. Thus, the presidential threshold should be abolished because it causes a lot of injustice, uncertainty, and becomes irrelevant to the simultaneous election model. In addition, the implementation of the presidential threshold is not in line with the spirit of the amendment to the 1945 Constitution of the Republic of Indonesia, which wants to strengthen the presidential government system.*

*Keywords :*

*2019 General Election, Presidential Threshold, Requirements for the Candidate Pair for President and Vice President.*