

## CHAPTER ONE

### INTRODUCTION

#### A. Background of Research

The Elections are minimum requirements that must exist for a democratic State. For this reason, elections are important parts of a democratic State. The Law No. 7 of 2017 concerning General Elections has become a hot topic of discussion, because this Law governs the Simultaneous Election system in Indonesia. This means that the Legislative and Executive elections are carried out simultaneously. In pursuance of The Law No.7 of 2017 concerning General Elections, general elections must be held based on the principles of Direct, Free, General, Honest, Confidential and Fair.<sup>1</sup>

In its implementation, a General Election must be carried out based on the correct Principles or in its Elimination, it must fulfill the Principles: Independent, Honest, Legal Certainty, Fair, Orderly, Open, Proportional, Accountable, Effective and Efficient. In addition to regulating the Concurrent Election system, The Law Number 7 of 2017 concerning General Elections also regulates the existence of the Presidential Threshold concept as stipulated in Article 222. Presidential Threshold is the Threshold for proposing the President and Vice President.

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<sup>1</sup> Republic of Indonesia Election Commission (KPU), 2019, “*Kualitas Pemilu 2019 Dari 5 Indikator*”, [https://www.kpu.go.id/index.php/post/read/IIX262up6TP5HTv7Zy1sHPXn8n6a44\\_D7FGH1RLk\\_oG1rNzvjoSc7YlqwOBrxfeRPueOiec1uZFje46zUPclBbQ~~/S7WTO-YuWi7Em8CBb](https://www.kpu.go.id/index.php/post/read/IIX262up6TP5HTv7Zy1sHPXn8n6a44_D7FGH1RLk_oG1rNzvjoSc7YlqwOBrxfeRPueOiec1uZFje46zUPclBbQ~~/S7WTO-YuWi7Em8CBb), Accessed on Saturday, October 5, 2019 at 23:55

The Threshold for the nomination of a Presidential or Presidential Threshold is the setting of the threshold for support from the DPR, in the form of the number of votes or seats acquired by a political party participating in the General Election. In order to be able to nominate the President of the political party, or form a coalition that is a combination of different political parties but have similarities in vision and mission, Political parties can make an agreement in order to fulfill the requirements; this is as regulated in Article 222 of The Law No. 7 of 2017 concerning General Elections.

The implementation of the Presidential Threshold in the Simultaneous Elections 2019, raises the question of how to implement the Presidential Threshold in the Elections held simultaneously in 2019? In logic, it must be done separately in general elections, namely the first Legislative Election and then the Executive General Elections which are conducted afterwards as in the general elections in previous years. Or like the United States, elects members of the Council for middle the term of office of the president (middle of the election).<sup>2</sup>

Conceptually, party or combination of parties can meet the requirements to nominate candidates for President and Vice President, after seeing votes in the form of votes or the number of seats obtained by political parties in parliament. If the 2019 presidential election still uses the Presidential Threshold, which election results will be used in the 2014

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<sup>2</sup> Veronika Yasinta, 2018, *Mengenal Pemilu Paruh Waktu AS dan Pengaruhnya bagi Kekuasaan Trump*, <https://internasional.kompas.com/read/2018/11/06/10265691/mengenal-pemilu-paruh-waktu-as-dan-pengaruhnya-bagi-kekuasaan-trump?page=all>, Accessed on 06 Oktober 2019 at 22:13

legislative elections or the 2019 legislative election results? it is also possible to change the political scheme of existing political parties.

The Presidential Threshold concept that was used at the General Elections 2019 has a variety of functions such as regulating the requirements in the submission of candidates for president and vice president. It further strengthened the president's position in the executive and received strong support in the legislature with the aim of facilitating the president in carrying out policies so that more effectiveness in government.

The application of the presidential threshold has a role in improving the quality of president's candidates and vice president candidates. The application of the threshold that was first applied in the State of Indonesia was during the 1999 General Election, namely the Electoral Threshold.<sup>3</sup> This threshold is intended as a condition for vote acquisition to be able to participate in the upcoming General Election. This is in Article 39 of The Law Number 3 of 1999 concerning Election which states: "To be able to participate in the next General Election, political parties must have as much as 2% of the total number of seats in the DPR or have at least 3% of the number of seats in DPRD I OR DPRD II which are spread at least in (½ (half) number of provinces and in half (half) the number in regencies / municipalities throughout Indonesia based on the results of the General Election ".

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<sup>3</sup> Kompas com, 2012, *Ambang Batas Kelewat Batas* , <https://nasional.kompas.com/read/2012/03/28/02000291/ambang.batas.kelewat.batas?page=all>, Accessed on Sunday, October 7, 2019 at 20:34

These Electoral Threshold rules are aimed at balancing enthusiasm in establishing political parties, so that in the 1999 General Elections there were 48 parties participating in the Election, of course this is the impact of the Reformation which is the door for the fulfillment of the right to associate and politic. However, with a very large number of political parties, 48 parties are deemed not to meet the principle of strengthening the presidential system in Indonesia.

While the application of the Presidential Threshold concept is also seen as an effort to strengthen the Presidential system used by the Indonesian State, the application of the presidential threshold also received pros and cons in its application in the 2019 simultaneous elections. After being passed in the DPR Plenary Meeting on 21 July 2017 The Law No. 7 of 2017 concerning the General Election was promulgated on August 16, 2017 by President Jokowi.

The Law No. 7 of 2017 concerning General Elections is a simplification and incorporation of 3 (three) Laws, namely Law No.42 of 2008 concerning Presidential Elections, Law No. 15 of 2011 concerning Organizing of Elections, and Law No. 8 of 2012 concerning the Election of Members of DPR, DPD and DPRD. In the Draft of this Law in the Parliamentary Session of the Parliament, there have been a number of parties who wish to submit a judicial review of Law No. 7 of 2017 concerning General Elections to the Constitutional Court.

As for example the action conducted by the plaintiff, Hadar Nafis Gumayyang, represented by the Petitioner's Legal Counsel Deni Indrayana. Deni Indrayana argued that in Article 222 of Law No. 7 of 2017 Concerning General Elections, the threshold requirement for the nomination of the President had degraded the level of direct voting by the people that had been affirmed in the 1945 Law. Conditions adopted from article 222 of Law No. 7 of the Year 2017 About the General Election, has caused people not free to vote because the choices are very limited.<sup>4</sup> Meanwhile, a strong government response to maintain the concept of Presidential Threshold 20% according to the Minister of Home Affairs, Tjahjo Kumolo, is there are 2 (two) considerations.

First, the number of presidential thresholds is the same as the old legislation, namely Law no. 42 of 2008 concerning Presidential Elections, which in principle is the same as the rules or judicial trials that have been submitted to the Constitutional Court. So, it is not contradicting with the rules regarding the Presidential Threshold in Law No. 7 of 2017.

Second, the Presidential Threshold has a goal in improving the quality of Candidates and Vice Presidents. The Presidential Threshold ensures that the President and Vice President elected receive maximum support from

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<sup>4</sup> Moh Nadlir, 2018, “ *Alasan Pasal Ambang Batas Pencalonan Presiden Kembali Digugat ke MK*”, <https://nasional.kompas.com/read/2018/06/14/06321551/alasan-pasal-ambang-batas-pencalonan-presiden-kembali-digugat-ke-mk?page=all>, Accessed on Monday, October 8 2019 at 23:15

political parties or a combination in Parliament so that the Presidential Threshold can strengthen the presidential system of government.

## **B. Statement of Problem**

Based on the background explanation above, the formulation of the problems are follows:

1. What is the function of the Presidential Threshold in Simultaneous Election?
2. What are the problems of Presidential Threshold in the working of Election 2019?

## **C. Objective of Research**

Some objectives of the research are as follows:

1. To understand the function of the Presidential Threshold in Simultaneous Election
2. To evaluate the problems of Presidential Threshold in the working of Election 2019

#### **D. Benefits of Research**

The benefits of this research are that it can be divided into 2 (two) types, namely theoretical benefits and practical benefits.

##### **1. Theoretical Benefits**

This research can be a development in Science and provide benefits in the Law of State Administration or the General Election system concerning the concept of Presidential Threshold in General Election in Indonesia as regulated in applicable Laws, and the Functions of Presidential Threshold when applied in the General Election Simultaneously in 2019.

##### **2. Practical Benefits**

This research can provide thoughts or information and advice to the public about the Presidential Threshold in the 2019 Simultaneous Elections in Indonesia.