Published by the decision of the Scientific Council
of Khachatur Abovian
Armenian State Pedagogical University

Department of Philosophy and Logic
named after Academician Georg Brutian

W I S D O M

4(24), 2022

WISDOM is covered in Clarivate Analytics' Emerging Sources Citation Index service

ASPU Publication

YEREVAN – 2022

DOI: 10.24234/wisdom.v24i4.952

THE PRESIDENTIAL ELECTORAL SYSTEM: A PHILOSOPHICAL ANALYSIS

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Abstract: The Republic of Indonesia's Law no. 7 of 2017 requires presidential and vice-presidential candidates to be proposed by political parties that meet the requirements, namely obtaining at least 20% of the total Legislative House seats or nationally obtaining 25% of valid votes in the previous Legislative House election. This is not recognized in Article 6A paragraph (2) of the 1945 Constitution, the constitutional basis for nominating a president. This paper aims to provide a philosophical analysis on the presidential and vice-presidential electoral threshold. Results show that from a philosophical perspective, this threshold provisions eliminate the constitutional rights of the people and minor political parties to nominate presidential and vice-presidential candidates. There can only be a maximum of three political parties and the oligarch and large political parties will make sure that the candidates will only come from their parties. This threshold undermines the logic of the presidential system. In conclusion, philosophically the threshold limits the freedom of alternative candidates to nominate themselves in the presidential election. It will only give an opportunity for candidates from major political parties. Thus, the government and various parties must reconsider this law to protect the rights of the people as mandated by the constitution.

Keywords: philosophy, threshold, candidacy, election, president.

Introduction

The direct presidential election is a rational choice to uphold democratization by cutting elite oligarchs. It is carried out through the people's direct participation in determining their leaders (Amalia et al., 2016, p. vii). According to Lijphart as Quoted by Amalia (Amalia et al., 2016, pp 242), there are only three essential elements of the presidential system, namely: (1) the president or head of government is elected for a fixed term of office; (2) the president is elected directly

by the people or through an electoral college as in the United States; and (3) the president is a single chief executive. Thus, the president's direct election by the people through general elections and the presidential term that is limited to only two terms open the opportunity for the institutionalization of the presidential democratic system. It is one of the important momentums for ending an authoritarian regime.

According to Mahfud MD (2007, pp. 133-135), the idea of the direct presidential elections in Indonesia is philosophically based on at least two reasons: (1) direct elections open more doors for the election of presidents and vice presidents who are in line with the will of the majority of the people, and (2) to maintain the stability of the government. The quasi-presidential system that previously prevailed in Indonesia through the indirect presidential election created a dilemma. During the New Order era (1966-1998), the president was too strong. It was difficult to overthrow him. Meanwhile, during the Reformation era (starting from 1998), the People's Consultative Assembly and the Legislative House were too strong. They easily removed presidents, such as what happened to Habibie (3rd Indonesian President) and Abdurrahman Wahid (4th Indonesian President) (Mahfud MD, 2007, pp. 133-135).

Mahfud explained the above situation in terms of philosophy, the public desired a change, namely the balance of power between the President and the People's Consultative Assembly and the Legislative House. This idea will philosophically create balance. Efforts to build this balance of power, according to philosophical theory, can be carried out by following the presidential election method according to a purer Presidential system, namely direct presidential election by the people (Mahfud MD, 2007, pp. 133-135). Therefore, in the third amendment in 2001, the presidential election system was directly included in the 1945 Constitution of the Republic of Indonesia by the People's Consultative Assembly.

The president and vice president electoral mechanism in Indonesia is stipulated in Article 6A paragraph (1) and paragraph (2) of the 1945 Constitution of the Republic of Indonesia. These articles read: (1) the president and vice president are elected directly by the people as a pair and (2) pairs of presidential and vice-presidential candidates are proposed by political parties or coalitions of political parties that participated in the general election prior to the organization of the general election. According to the philosophy norm, this law is a doing work of political parties that aimed to preserve their hegemonies, that candidacy can only be carried out through political parties. This is a smart move.

The constitution does not stipulate the requirements for political parties in nominating pairs of presidential and vice-presidential candidates. But the Election Law (Law no. 7 of 2017) regulates the requirements for the presidential nomination in Article 222 which reads, "Candidate pairs are proposed by political parties or political parties that participate in the election contestation that meet the requirements, namely obtaining at least 20% (twenty percent) of the total Legislative House seats or nationally obtaining 25% (twenty-five percent) of valid votes in the previous election of the Legislative House members".

The stipulations on the presidential electoral threshold are often referred to as the Presidential Threshold Rule. The Presidential Threshold Rule was a decision of the Legislative House. It resulted from a voting process. There was a sharp difference between the two factions, namely the group of political parties that support the government and the group of opposition political parties. It was won by the group of political parties that supported the government (The General Secretary of the Republic of Indonesia's Legislative House, 2017a). In the philosophical paradigm, this stipulation has caused a prolonged polemic because it resulted in implications for the public and citizens' electoral rights.

The above said Threshold Rule limits the rights of political parties to nominate presidential and vice-presidential candidates. It even eliminates the rights of new political parties to run for President. This is because new political parties do not yet have Legislative House seats nor do they have votes from the previous election. From the philosophical point of view, the public can see and assess that this law is a method of the oligarch and political parties to amputate people's rights.

The regulation on the presidential threshold in Law No. 7 of 2017 on the General Election has truly resulted in discrimination and injustice. It also brings loss to political parties, especially opposition or new political parties. This law philo-

sophically violated the *nullus/nemo commundus capere potest de injuria sua propria* principle, which means that people cannot obtain benefits from violations or criminal actions that they committed and neither can they suffer from losses due to the violations or criminal actions committed by other people (Harun, 2016, p. 265). Political parties of the government and their supporters who dominate the parliament have systematically designed the presidential threshold regulation. This aims to bring advantages to major parties, while simultaneously pressuring small parties so that they cannot nominate presidential candidates as they are inhibited by the required threshold rate. In consequence, in nominating presidents, small parties are forced to make coalitions with major parties. This scheme surely brings benefit to major political parties, as they have strong political bargaining to regulate presidential nomination. On the contrary, small political parties must suffer the loses as they are in a very weak condition and they tend to follow the will of major parties. Because of that, this regulation is already flawed from the beginning. It does not accommodate all potentials of candidate presidents from every political party that participate in the general election.

The regulation on the presidential threshold is far from the values of justice. According to John Stuart Mill, justice is defined as the greatest benefit or the principle of happiness. It means that certain actions are deemed as correct if they tend to enlarge happiness. On the contrary, they tend to be wrong when they tend to decrease happiness (Lebacqz, 2008, p. 14). Then, Mill said that what is meant by happiness is contentment and the absence of pain (Lebacqz, 2008, p. 14). Mill's opinion followed his predecessor Jeremy Bentham, who was part of the utilitarian group. He defined justice into two assumptions: (1) the aim of life is happiness and (2) the correctness of an action is determined by its contribution to happiness (Lebacqz, 2008, pp. 14-15). But these two figures have different opinions on the meaning of happiness and the non-existence of pain. Mill developed further by explicitly sorting out the difference between types of happiness and pain. According to him, intellectual happiness is not only more useful than meat happiness, but it is intrinsically more superior (Lebacqz, 2008, p. 15). Due to such differences, the utilitarian group is separated into two. Some regard happiness as mere contentment and the absence of pain (hedonistic utilitarianism), while others included other end goals, such as truth and beauty (ideal utilitarianism) (Lebacqz, 2008, p. 15).

Apart from defining justice, Mill also formulated six general conditions that are deemed as unjust, namely: (1) separating people from various things to which they have the legal entitlement; (2) separating people from anything to which they have the moral rights; (3) people do not obtain the things that they deserve to receive: good for those who act correctly and badness for those who act wrongly; (4) faith-based conflicts between people; (5) acting half-heartedly, such as showing support only as a lip service; and (6) forcing or pressuring others who are not equitable with them (Lebacqz, 2008, p. 20).

Then, Mill suggests that justice highly depends on benefit, as conflicts concerning general regulations on justice can only be resolved by referring to the principle of benefit (Lebacqz, 2008, p. 22). Anything that brings the greatest goodness to all can be regarded as just (Lebacqz, 2008, p. 24). Thus, Mill argues that benefit should be felt by the most people/parties so that it can reach the life goal which is happiness. When comparing the presidential threshold with Mill's opinion on justice, it can be concluded that the presidential threshold does not provide benefits that can be felt by all parties, i.e., political parties that are participants of the general election, as well as presidential candidates from political parties.

Apart from Mill, there is also John Rawls' version of justice. Rawls state that justice is fairness or equality. The presidential threshold is unfair, as it does not provide an equal position to all political parties that have been determined as general election participants by the General Election Commission. According to Rawls, the concept of justice rests on two principles, namely: *First*, every individual has the same rights towards the most extensive total system for the basic freedom that is similar to the freedom system that is the same for all (Lebacqz, 2008, p. 53). *Second,* social and economic injustice are created as such so that they can: (a) bring the greatest profit to disadvantaged groups, according to the principle of just retrenchment, and (b) attached to the service and opened governmental position for all people based on the condition of just equality towards opportunities (Lebacqz,

2008, p. 57).

Rawls' two principles on justice are relevant when associated with the current issue on presidential threshold. When formulating the Law on the General Election, political parties that have long been in the parliament do not seem to consider the principle of justice for all political parties that are participants of the general election. With proper rationing, one can conclude that the presidential threshold regulation will bring disadvantages to political parties, especially small or new ones. The mechanism concept of presidential nomination should bring advantages to all political parties that are participants of the general election, including new, old, large or small political parties. Stipulations of the Law on the General Election should fulfill the interests and bring advantages to all political parties. Following the principle of differences, varieties in the political freedom is accepted. Varieties in political parties are acceptable as there are objective differences between members of society (political parties). Such differences are undeniable (Ujan, 2001, p. 53).

Meanwhile, in the aspect of democratic similarity that results in the principle of differences, it can be understood that the advantages of a group (old/big political parties) that are more fortunate should not cover the opportunity of less advantageous groups (new/small political parties) in obtaining equal access (Ujan, 2001, p. 104). Because of that, the presidential threshold should not cover the opportunity of small or new political parties that are less fortunate as they did not participate in the previous general election. These small/new political parties were neither involved in formulating the regulations of the general election that have restrictive stipulations to political parties in nominating presidential candidates, although they have the status as general election participants.

The regulation on the presidential threshold has implications on the limitation of the number of presidential candidates that are nominated by political parties. The nomination of presidential candidates is not based on the constitutional rights of political parties that are general election participants. But it is based on whether or not political parties fulfilled the presidential threshold. The coalition formed between political parties are not based on similar ideologies, platforms, visions, missions, and programs of the parties. On the contrary, it is based on pragmatic interests. Even, the coalition was in the form of a cartel coalition. The cartel coalition is a coalition that is aimed to maintain power by amassing as many supporting parties as possible. The main characteristic is office-seeking, i.e., seeking the greatest benefit to obtain power (Ujan, 2001, p. 104). Eva Kusuma Sundari explained the characteristics of political cartels as follows: (1) the dissolution of the parties' ideological role as the factor in determining inter-party coalition, (2) there is a permissive attitude in forming coalitions, (3) there is no opposition that truly criticizes the government, (4) the general election does not affect the determination of party behaviors, (5) the strong tendency of parties to act collectively as a group (Ujan, 2001, p. 237).

The phenomenon of the cartel coalition is similar to the birth of the holding industry in politics. Because of that, the presidential nomination can easily be controlled by a small group of people with capital (oligarchy). The oligarchic power monopolizes president candidates. It shifts the people's rights to obtain abundant alternatives of presidential candidates. A limited number of presidential candidates (for instance two candidates) will ease the oligarchic power in influencing and controlling presidential candidates by providing funding and supporting facilities that they provided in the general election. This is so that no matter which presidential candidate is elected, he/she will easily be controlled to follow their future political and economic missions and agenda.

Oligarchy has an interest in controlling the economy, politics, as well as natural resources through presidential policies and legal products created by the legislative house. With the cartel coalition of the majority parties, leaving little room for oppositions, it will be easy to manifest the oligarchy's desires. In the context of Indonesia, it has been proven that various legal formulations side groups that have capital, such as the Law on Mineral and Coal, the Law on Job Creation, the Law on the Capital City of the Archipelago, Revision of the Law on the Commission of Corruption Eradication, etc. The people are no longer involved in the formation of these various laws. Law makers no longer give attention to actions of petitions and demonstrations. The arrival of the oligarchy in the governmental power becomes a serious threat to democracy and peo-

ple's sovereignty. The condition of the people and civilians' organizations are weakened with various legal instruments that threaten freedom. Thus, they have no courage. Or, they are unable to control governmental policies in various sectors, including the highly destructive natural resource exploitation that results in climate change. The people no longer have the power to resist strategic national projects that endanger the living space, that create agrarian conflicts, as well as causing ecological disasters. The process of policy formulation in developmental politics is not carried out through the deliberative mechanism (dialogs and deliberation) with society. There is no room for public dialogs.

Thus, the existence of the presidential threshold is highly destructive. It limits the rights of opposition political parties as well as the rights of the people. It creates a "puppet" president under the hands of the oligarchy. The general election is only a mere formality and ceremony to strengthen the oligarchic power.

This paper aims to provide a philosophical analysis on the presidential and vice-presidential electoral threshold in the Indonesian electoral system. This article contributes to the philosophy of science by providing a philosophical analysis of the presidential and vice-presidential electoral threshold in the Indonesian context. It is crucial to view this case using the philosophical paradigm to profoundly see the real reason of certain parties in enacting this law. This can become an inspiration for future research both in Indonesia and in other countries to become critical by using the philosophical paradigm to analyze laws issued by the government.

Methods of Research

This research was normative legal research. This research used three methods of approach, namely conceptual, statutory, and philosophical approaches. The data was collected through literature research, especially papers, documents, and articles on law and philosophical law. Analysis of data or legal materials was carried out using the philosophical paradigm.

Results and Discussion

According to the philosophical paradigm, the decision on political parties is a legal policy that will be or has been nationally implemented by the Government of Indonesia. It includes: first, legal development whose core is making and updating legal materials so that they are in line with the needs of the political parties. Second, the implementation of the decision on political parties in terms of the affirmation of the institution's functions and the development of law enforcers (Mahfud MD, 2010, pp. 5-14). In line with Mahfud's opinion, Radhie (1973, p. 3) stated that the state's decision is not only about policies regarding laws that will be enforced or developed, but it also contains statements of the oligarch's and political parties' wills under the guise of people's benefit.

Wahyono (1986, p. 160) argued that according to the philosophical perspective that views the law and its aim of enactment, it can be seen that the political parties' desire to preserve their hegemony by overstepping the people is the basic policy that determines the direction, form, and content of the law. This explanation was later clarified by Wahyono. The state administrators' policy regarding what is used as a criterion for punishing certain actions as well as the establishment, application, and enforcement of the law was made by and for the benefit of the political parties and the oligarch (Mahfud MD, 2010, pp. 5-14).

Philosophically, the regulations and implementation of the presidential threshold (PT) in Indonesia function as a threshold/PT for candidacy, not a threshold/PT for electability. This concept is different from the PT concept practiced in various countries. J. Mark Payne, et al. in their book entitled "Democracies in Development: Politics and Reform in Latin America", quoted by Kartawidjaja (2016, p. 5), defined the Presidential Threshold as follows, "If people talk about elections related to the presidential threshold, then what is meant is the requirement of a presidential candidate to be elected as President". For example, in Brazil, it is 50 percent plus one; in Ecuador, it is 50 percent plus one or 45 percent, as long as there is a 10 percent difference from the strongest rival; and in Argentina, it is 45 percent or 40 percent, as long as there is a 10 percent difference from the strongest rival and so on (Kartawidjaja, 2016, p. 5).

In terms of political philosophy, this was created so that the people cannot freely choose.

With this electoral threshold, the people will only be offered choices that have been 'selected' by the political parties and the oligarchy. This is because, in this system, candidates that are not according to the political parties and the oligarchy will not be able to elect themselves as they do not fulfill the electoral threshold of the presidential candidacy. The electoral threshold of 20% is based on the vote obtainment of political parties or coalitions of political parties that elect the president.

The presidential threshold (PT) concept in the sense of electability is also adhered to in the 1945 Constitution of the Republic of Indonesia. Article 6A paragraph (3) of the 1945 Constitution states that presidential and vice-presidential candidates who obtain more than fifty percent of the votes in the general election with at least twenty percent in every province spread over more than half of the provinces in Indonesia were sworn in as president and vice president. Although it has been regulated that there is a PT for electability as stated in Article 6 paragraph (3) of the 1945 Constitution, the Election Law adds an electoral threshold requirement at the nomination stage.

According to Sulardi (2018), Indonesia implemented a double PT system. This is because there are two threshold settings, namely during the nomination stage, i.e., the electoral threshold and during the election, i.e., the PT. In the constitution, the PT is only acknowledged at the electability phase of the second round of the presidential elections. Meanwhile, the term for the presidential nomination threshold in Indonesia is called the presidential threshold (PT).

Further, Sulardi argued that in terms of how the PT is practiced in several countries, it can be emphasized that the PT is a requirement for a presidential candidate to be elected president. On the contrary, it is not a requirement for the nomination of presidents and vice presidents. Then, philosophically, the PT was a norm set by political parties to grab the people's sovereignty to elect the president. In this PT system, one can only become a presidential candidate if he has obtained support from political parties or the coalision of political parties that attained at least 20 percent of the seats in the Legislative House (Sulardi, 2018).

Several parties' setting of the PT in the election system is based on some arguments and considerations, including (The General Secretary of the Republic of Indonesia's Legislative House, 2017b): (1) the president needs to obtain strong support from the parliament (the Legislative House) so that the government can run effectively and stably. This is because several presidential policies require approval or consideration from the Legislative House; (2) there are concerns that a presidential system combined with a multi-party system will open up the possibility of electing a President from a minority political party in parliament (Legislative House). This condition is prone to a deadlock relationship between the president and the Legislative House; (3) Third, the presence of an PT is required to support the efforts to simplify political parties. This is to achieve a consolidation of democracy and facilitate the achievement of consensus (agreement) between political parties in parliament.

Therefore, it is necessary to build an understanding of the coalitions or cooperation between political parties from an early stage, starting from proposing pairs of presidential and vice-presidential candidates in the general election. With at least the three reasons above, the PT is maintained in the Election Law.

However, if profoundly analyzed from a philosophical perspective, the PT provisions are considered detrimental. What is desired to be achieved from the PT is actually different from the officially proposed reasons.

First, the PT policy has reduced or even eliminated the constitutional rights of the people and minor political parties to nominate pairs of presidential and vice-presidential candidates which are actually guaranteed by the constitution. Second, the PT restricts and even denies people's sovereignty, because it limits the number of presidential candidates that will appear. There can only be a maximum of three political parties and the oligarch and large political parties will make sure that the candidates will only come from their parties. This simultaneously limits the people's rights to obtain alternative presidential candidates. Third, the PT undermines the logic of the presidential system. In a presidential system of government, the president and the parliament are separate institutions, each of which has a basis of legitimacy from the people. Therefore, the PT threshold provisions stipulated in Law No.7/2017 have been repeatedly requested for

judicial review by the Constitutional Court. Only from the philosophical perspective can one see the real motive behind the application of the PT stipulations (Nugroho, 2022).

This shows that PT is still a huge issue in the democratic process in Indonesia. The judicial review applicants consider that Article 222 of Law 7/2017 contradicts the constitution, especially Article 6A paragraph (2) of the 1945 Constitution of the Republic of Indonesia which is the constitutional basis for the nomination of presidential and vice-presidential candidates. However, the Constitutional Court (CC) considered that the PT regulation was within the jurisdiction of the legislators. Thus, so the CC felt that it had no authority to cancel it and stated that the regulation was an open legal policy. This logic was fatal since the CC chairman was arrested by the Commission for Corruption Eradication (Komisi Pemberantasan Korupsi/KPK) for obtaining bribes in resolving general election disputes (Wardah, 2013). Apart from that, a CC judge was arrested by the Commission for Corruption Eradication in a different case (After Akil Mochtar, Patrialis Akbar Was the Constitutional Court Judge That Was Arrested by the Commission for Corruption Eradication, 2017). Then, some members of the General Election Commission were arrested for manipulating the general election results (Wahyu Setiawan, the Fifth Commissioner of the General Election Commission That Became Suspect of the Commission of Corruption Eradication, 2020).

According to Isra (2017), as the basic law, the 1945 Constitution has provided more than sufficient directions in managing the process for nominating presidential and vice-presidential candidates. Due to its position as the basic norm, it is still possible to explain it further with lower-level laws and regulations. However, to profoundly understand what is happening, one must not deviate from what has definitively been stated by the philosophical perspective (The General Secretary of the Republic of Indonesia's Legislative House, 2017b). In the 1945 Constitution, there are instructions for searching and finding the contents of the law.

Indrati (2007) explained three guidelines can be used to find the contents of the law, namely: 1) from the provisions in the body (Articles) of the 1945 Constitution; 2) based on the state's insights as stated in the law; 3) based on the government's insights in the constitutional system.

The law can be formed and it can be interpreted according to the direction of the law that will be enforced by the state. This is aimed at achieving the goals of the oligarch and the political parties. The oligarch can undergo collusion to form and interpret the law according to their desires by funding political parties and bribing legislative members and constitutional court judges. In this sense, legal politics is always argued upon based on the goals of the state and the legal system that is applicable in the country (Mahfud MD, 2010, pp. 5-14). When viewing from the philosophical perspective, one can always see what is behind the law and the authority, as neither was formed from an empty space. On the contrary, they originate from a space that is full of interests (Budiono, 2020). Only with the philosophical paradigm and understanding can one understand what is behind the law and the authority.

In changing the 1945 Constitution concerning the implementation of the direct presidential election system, some considerations that emerged during the discussion included the following (The General Secretary of the Constitutional Court, 2008).

1. The philosophical basis for implementing change is that it must be understood that a system of checks and balances must be created. If the People's Consultative Assembly consists of Legislative House and Regional Legislative House members who are directly elected by the people, then the logical consequence is that the President and Vice President must directly be elected by the people through the election.
2. Because the President and Vice President are directly elected by the people in a round system in accordance with Article 6A, the impact is that the division of powers between the executive and legislative branches will be created in an equilibrium. It means that there is a balance of power. Neither the executive nor the legislative has more power. Their powers are at an equilibrium.
3. In a presidential system, the duties of the President and Vice President will last for 5 years. They can be re-elected for just one more term. This is where it is essential and urgent for the president to be directly elected by the people. This is to maintain and increase

the people's trust in the President.

4. The bottom-up analysis is that if the people directly chose the President and Vice President, these leaders will be imprinted in the people's hearts. The people will have a deep sense of belonging. Thus, many possibly occurring issues can be avoided by profiteering on behalf of the people.
5. If the President and Vice President are directly elected by the people, then the credibility of the President will be stronger. The People's Consultative Assembly will not easily overthrow them.
6. In terms of accountability, if the President is directly elected by the people, it would be easier for the people to correct him through the House of Representatives because both are directly elected by the people. This will create transparency.

These considerations resulted in the formulation of an Article regarding the nomination of the President, namely Article 6A paragraph (2) of the 1945 Constitution which reads, "Presidential and Vice-Presidential candidate pairs are proposed by political parties or coalitions of political parties participating in the general election prior to the holding of the general election". This Article provides no additional requirements for political parties to nominate the President, as long as they have been registered as eligible participants. However, the Election Law stipulates additional requirements apart from being an eligible participant. It stipulates that a political party must already have 20% of the seats or votes in the previous legislative elections (Constitution of the Republic of Indonesia, 1945, Article 6, clause 2).

The setting of the threshold for the Presidential nomination in Article 222 UU 7/2017 (The Government of the Republic of Indonesia, 2017) contradicts Article 6A paragraph (2) of the 1945 Constitution of the Republic of Indonesia. It creates a conflict of norms. This is because the "threshold" for the presidential nomination referred to in Article 6A paragraph (2) of the Republic of Indonesia's 1945 Constitution is not an acquisition of 20% of the Legislative House seats, but it is according to the requirements of political parties as election contestants. This is the result of the PT application by the majority of political parties. This resulted in the amputation of the people's right to obtain the best president that is freely chosen by the people. It is clear that the people are "forced" to choose limited candidates that are supported and approved by political parties or coalitions of political parties that acquired 20% of the Legislative House seats.

Therefore, the "threshold" referred to in the Republic of Indonesia's 1945 Constitution is the threshold for political parties to become election contestants (election threshold of the legislative house). Meanwhile, the threshold stipulated in the Election Law is for political parties to propose presidential and vice-presidential candidates (presidential threshold). It means that from the philosophical point of view, political parties deliberately snatched people's rights to freely choose, as political parties are afraid that the elected president does not represent their desire for power.

According to legal philosophy, these two arrangements have different consequences. The "threshold limit" of political parties contesting in the election results in political parties that qualify as election contestants and political parties that do not qualify as election contestants. Meanwhile, the presidential threshold produces political parties contesting in the election that can nominate presidential candidate pairs. Thus, Article 6A paragraph (2) of the Republic of Indonesia's 1945 Constitution requires all political parties participating in the election to have the ability to nominate pairs of presidential and vice-presidential candidates. But Article 222 of Law no. 7 of 2017 stipulates that not all political parties contesting in the election can nomi-nate pairs of presidential and vice-presidential candidates. Therein lies the conflict of norms between the two laws.

Table 1.

Results of the 2014 and 2019 Legislative Elections
(The data from the General Election Commission on the 2014 and 2019 election results)

Political parties	2014 election		2019 election	
	Seat Acquisition	Vote Gain	Seat Acquisition	Vote Gain
PDIP	109 (19.4%)	23,681,471 (19%)	128 (22.3%)	27,053,961 (19.3%)
Golkar Party	91 (16.3%)	18,432,312 (14.8%)	85 (14.8%)	17,229,789 (12.3%)
Gerinda Party	73 (13.0%)	14,750,372 (11.8%)	78 (13.5%)	17,594,839 (12.6%)
Nasdem Party	35 (6.3%)	8,402,812 (6.7%)	59 (10.3%)	12,661,792 (9.1%)
PKB	47 (8.4%)	11,298,957 (9.0%)	58 (10.1%)	13,570,097 (9.7%
Democratic Party	61 (10.9%)	12,728,913 (10.2%)	54 (9.4%)	10,876,057 (7.8%)
PKS	40 (7.1%)	8,480,204 (6.7%)	50 (8.7%)	11,493,663 (8.2%)
PAN	49 (8.8%)	9,481,621 (7.6%)	44 (7.6%)	9,572,623 (6.8%)
PPP	39 (7%)	8,157,488 (6.5%)	19 (3.3%)	6,323,147 (4.5%)
Hanura Party	16 (2.9%)	6,579,498 (5.3%)	-	-

Based on the table above, in the 2014 election, not a single political party met the requirements for nominating pairs of presidential and vice-presidential candidates, as none of them achieved a minimum of 20% of the seats or 25% of the votes in the legislative election. Whereas in the 2019 elections, only one political party met the requirements for nominating pairs of presidential and vice-presidential candidates in the upcoming 2024 elections, namely PDIP. PDIP was the party that was most stubborn in issuing the PT in the Presidential Election Law with its coalition parties in the government. Its oppositions were PKS and Demokrat whose combined number of seats and votes cannot fulfill the PT of 20%.

This provision hinders political parties from independently nominating pairs of presidential and vice-presidential candidates. They are forced to form coalitions to meet the adequacy of the threshold. In this case, coalitions are not built based on the parties' ideologies, platforms, or programs, but rather, as mere instruments to meet the threshold number.

The setting and enforcement of the presidential and vice-presidential nomination threshold (Presidential Threshold) in the Indonesian general election system as stated in Law Number 7 of 2017 is not in accordance with the legal policy of the post-amendment 1945 Constitution.

Based on this data, the governmental coalition can nominate two pairs of presidential and vice-presidential candidates without giving any chance to the opposition candidates or other candidates. Thus, they can maintain their power. In this setting, any victorious pair will originate from the governmental coalition. Philosophically, this is what is behind the Law on the Presidential Election with the PT as a requirement. This stipulation is not aimed to create governmental stability nor is it to ease the running of the government. The enactment of the PT that is argued to strengthen democracy and affirm the principle of a stable government are mere excuses.

With philosophy, we can understand the true essence of the regulatory substance in the Election Law which prioritizes the creation of a stable and effective government. Political parties wishing to nominate pairs of presidential and vice-presidential candidates must have initial support. They must obtain a certain number of seats in the Legislative House or valid votes in the previous Legislative House election. This is to anticipate the election of a presidential and vice presidential candidate pair with minority support in the Legislative House. It is to prevent instability and ineffectiveness of the government, as some government policies require the Legislative House's consideration or approval. Such reasons are only lip service, as in essence, they are aimed to maintain the power of those in the government, even by cutting people's rights in electing presidents.

Unfortunately, political parties are supported by decisions of the Constitutional Court which rejected all requests for judicial review on the constitutionality of the threshold. The PT in the

context of strengthening the presidential government system and simplification of political parties are mere illusions that are used by the oligarchy and the political parties to maintain power.

Conclusion

Philosophically, the implications of the PT application are to cut the rights of the people to freely choose alternative candidates apart from those proposed by major political parties that are part of the governmental coalition. Philosophically, the PT limits the freedom of alternative candidates to nominate themselves in the presidential election. It will only give an opportunity for presidential and vice-presidential candidates from major political parties.

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