

CHAPTER ONE

INTRODUCTION

A. Background of Research

The enactment of the Law Number 7 of 2017 on General Election has created controversies. The main controversy actually is about Presidential Threshold. Presidential Threshold is total number of seats and votes to propose President and Vice President candidates. In order to propose pair of President and Vice President candidate, the parties or parties coalition have to reach minimum requirement of 20 per cent seats of House of People Representatives (hereinafter is referred to DPR) or 25 per cent of national votes.¹

The controversy happened because Presidential Threshold that will be applied in the upcoming general election in 2019 is going to be held in simultaneous election. If the general election in 2019 is held simultaneously the question is whether the Presidential Threshold still relevant or it should be abolished in the simultaneous election 2019. Furthermore, Presidential Threshold becomes a dilemma for politicians because when the general election is held simultaneously there should be no Presidential Threshold.²

Simultaneous election is a new thing in Indonesia triggered by the Constitutional Court (hereinafter is referred to MK). The MK

¹Article 222 of the Law Number 7 of 2017 on General Election.

²Sodikin, Pemilu Serentak “Pemilu Legislatif dengan Pemilu Presiden dan Wakil Presiden) dan Penguatan Sistem Presidensial”, *Journal Rechtsvinding*, Vol. 3, No. 1, Issued April 2014, ISSN 2089-9009, p.19.

verdict Number 14/PUU-XI-2013 was a result of judicial review of Article 3 Paragraph (5), Article 9, Article 12 Paragraph (1), Article 14 Paragraph (2), and Article 112 of Law Number 42 of 2008 on Presidential Election towards Article 6A Paragraph (2), Article 22E Paragraph (1) and Paragraph (2), Article 27 Paragraph (1), Article 28 D Paragraph (1), 28 H Paragraph (1), and Article 33 Paragraph (4) of the 1945 Constitution.

MK decided those articles that except Article 9 which mentioned about Presidential Threshold in the Law Number 42 of 2008 on the Presidential election. It has no legal binding as it was only based on MK decision but the Presidential Threshold concept is open legal policy.³

The Presidential Threshold that will be used in the simultaneous election 2019 actually had been used in general election 2004.⁴ The using of Presidential Threshold in 2004 was still reasonable because the general election in 2004 had separated the legislative election and the Presidential election. However in the upcoming general election 2019 the Presidential and legislative election will be held at the same time or simultaneously.⁵ Therefore the idea of Presidential Threshold was ignored by some political parties because the Presidential Threshold will not be implemented

³Constitutional Court Verdict 14/PUU-XI-2013.

⁴Ahmad Hendra T.P, "Implikasi Pemilihan Umum Anggota Legislatif dan Pemilihan Umum Presiden dan Wakil Presiden secara Serentak terhadap Ambang Batas Pencalonan Presiden (Analisis Putusan Mahkamah Konstitusi Nomor 14/PUU-XI-2013)", *Jurnal Hukum dan Legal Opinion*, Vol. 3. No. 1, 2013, ISSN: 2527-9505, p.3.

⁵*Ibid.*

properly considering that only the political parties that have adequate votes or seats in DPR can propose President and Vice President candidates⁶ while those parties with small votes and seats or the new political parties can not propose the President and Vice President candidates.⁷

The Presidential Threshold concept was supported by the Government of Indonesia because the concept of Presidential Threshold will minimize the number of President and Vice President candidates which propose by participating parties in simultaneous election and also to strengthen the Presidential system.⁸

The data of the General Election Commission (hereinafter is referred to KPU) shows that in general election 2014 there were thirty four parties registered but only ten political parties passed the verification by KPU. From the ten parties, nine political parties won the seats of DPR in the previous election and one a new political party. However from ten political parties followed the legislative election 2014 no party won 20 per cent of DPR seats or 25 per cent of national votes.⁹

The highest votes were received by *Partai Demokrasi Perjuangan Indonesia* (hereinafter is referred to PDIP) of 23.681.471 (18,95 per cent) of the national votes. This data supports Saldi Isra opinion that no room to worry the considerable number of President

⁶Ahmad Hendra T.P, *Op.Cit.*, p.4.

⁷*Ibid.*

⁸Shinta Dwi Kartika, “*Presidential Threshold* dalam Revisi UU Pilpres”, *Info Singkat Hukum*, Vol. 5 No. 14, 2013, p.2.

⁹ *Ibid.*

and Vice President candidates to be proposed by the political parties in the upcoming simultaneous general election.¹⁰

Based on the explanation above, it can be outlined that the application of Presidential Threshold for the upcoming general election in 2019 will still create controversy because some politicians argue that the Presidential Threshold is not relevant anymore to be used in simultaneous election. Therefore in this matter the government should take a good solution in order not to cause a harm towards any people. Thus, in this research the writer will focus on the Presidential Threshold enactment for the upcoming general election in 2019 and the writer is interested to write a research by the title of “Presidential Threshold in Simultaneous Election after the Enactment of the Law Number 7 of 2017 on General Election.”

B. Research Problem

1. What is the position of Presidential Threshold in Simultaneous Election?
2. What is the best model of Presidential Election in the Future?

¹⁰ *Ibid.*

C. Objective of Research

1. To describe the position of Presidential Threshold in Simultaneous Election;
2. To analyze the Presidential Threshold in Simultaneous Election and the model of Presidential Election in some countries;
3. To propose some suggestion on better concept and model of Presidential Election.

D. Benefit of the Research

The benefit of research, are:

1. Theoretical Benefit

This research can be used as study materials toward other researcher relating to the concept and a much better model of Presidential Threshold in Simultaneous Election after the enactment of the Law Number 7 of 2017 on General Election.

2. Practical Benefit

This research can be a reference material in the practice to provide information and advice to practitioners, and society about the Presidential Threshold in Simultaneous Election after the enactment of the Law Number 7 of 2017 on General Election.