

ABSTRACT

CONSTITUTIONALITY PRESIDENTIAL THRESHOLD IN ELECTION SIMULTANEOUSLY IN 2019

By

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The legal provisions presidential threshold as stipulated in Article 222 of Law No. 7 of 2017 on the General Election to be studied in depth related to the constitutionality of the presidential threshold in the elections simultaneously, 2019. The problem in this research are: how the constitutionality of the provisions of the presidential threshold in the elections simultaneously in 2019 and how the legal consequences that occur towards the implementation of the provisions of the presidential threshold. This study uses normative juridical approach. The data used are primary data and secondary data. Data were analyzed qualitatively and conclusions drawn deductively. Results of research and discussion shows that the political party or coalition of political parties that have been established by the General Election Commission as participants of the elections have the constitutional right to nominate the President and Vice President. The Constitution only gives space to the shaper Act to regulate further on; requirements to become President and Vice President and procedures for the election of President and Vice President. The legal consequences that occur towards the implementation of the presidential threshold provisions, among others: the occurrence of multi-interpretation (ambiguity) the provisions of Article 222 Election Law brings norm dispensation (vrijstelling) and norm command (Gebod). Rights fundamental principle contradiction in the Act of 1945. It is expected that the percentage of parliamentary seats in the requisite support the candidacy of the President and Vice-President (presidential threshold) may not be calculated based on short-term political considerations but must be measured in proportion to the attention of law simplification of the party political balance and protection of the rights of citizens.

Keywords: *The Constitutionality, Presidential Threshold, Election Simultaneously.*

ABSTRAK

KONSTITUSIONALITAS *PRESIDENTIAL THRESHOLD* DALAM MENGHADAPI PEMILU SERENTAK TAHUN 2019

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Ketentuan hukum *presidential threshold* sebagaimana diatur dalam Pasal 222 Undang-Undang Nomor 7 Tahun 2017 tentang Pemilu menjadi kajian secara mendalam terkait konstitusionalitas *presidential threshold* dalam menghadapi pemilu serentak 2019. Permasalahan dalam penelitian ini adalah: bagaimana konstitusionalitas ketentuan *presidential threshold* dalam menghadapi pemilu serentak 2019 dan bagaimana akibat hukum yang terjadi terhadap penerapan ketentuan *presidential threshold*. Penelitian ini menggunakan pendekatan secara yuridis normatif. Jenis data yang digunakan adalah data primer dan data sekunder. Data yang diperoleh dianalisis secara kualitatif dan ditarik kesimpulan secara deduktif. Hasil penelitian dan pembahasan menunjukkan bahwa partai politik atau gabungan partai politik yang telah ditetapkan oleh Komisi Pemilihan Umum (KPU) sebagai peserta pemilihan umum memiliki hak konstitusional untuk mencalonkan Presiden dan Wakil Presiden. Konstitusi hanya memberikan ruang kepada pembentuk Undang-Undang untuk mengatur lebih lanjut mengenai; syarat-syarat untuk menjadi Presiden dan Wakil Presiden dan tata cara pelaksanaan pemilu Presiden dan Wakil Presiden. Akibat hukum yang terjadi terhadap penerapan ketentuan *presidential threshold* antara lain: terjadinya multi-tafsir (*ambiguity*) ketentuan Pasal 222 Undang-Undang Pemilihan Umum mengusung norma dispensasi (*vrijstelling*) dan norma perintah (*gebod*). Terjadinya kontradiksi asas *fundamental rights* dalam Undang-Undang Dasar 1945. Terjadinya sistem multi partai dan munculnya partai-partai baru. Diharapkan persentase syarat dukungan kursi DPR dalam pencalonan Presiden dan Wakil Presiden (*presidential threshold*) tidak boleh dihitung berdasarkan pertimbangan politik jangka pendek akan tetapi harus diukur secara proporsional dengan memperhatikan keseimbangan politik hukum penyederhanaan partai dan perlindungan terhadap hak warga negara.

Kata Kunci: *Konstitusionalitas, Presidential Threshold, Pemilu Serentak.*