

Elimination of Parliamentary Threshold and Efforts of Democratization in Parliament

Amalia Diamantina¹, Lita Tyesta A. L. W.², Diastama Anggita R.³, Sandra Leoni P. Y.⁴
{amaliadiamantina.undip@gmail.com¹, litatyestalita@gmail.com²,
diastamaanggita@lecturer.undip.ac.id³, sandra.yakub@yahoo.com⁴}

Universitas Diponegoro, Indonesia^{1, 2, 3}
Universitas Indonesia, Indonesia⁴

Abstract. In the 2019 election, the size of the parliamentary threshold is 4%. The use of the parliamentary threshold is very burdensome for small and new parties and often gives injustice. For this reason, the author will discuss the evaluation of the use of the parliamentary threshold and the solution to the abolition of the parliamentary threshold. This research is juridical normative, which is carried out by examining library materials or secondary data in the form of primary and secondary legal materials. The parliamentary threshold is benefit large parties already relatively well-established, and also impacts wasted voter vote acquisition on parties that cannot the minimum parliamentary threshold votes. It has implications on disproportionalitof seats. Necessary remove the parliamentary threshold so that parties with votes below 4% get seats. Worries about the large number of parties in parliament which will affect the stability of the government, is to simplify the factions in the DPR or reduce the number of seats in each electoral district which is followed up by changing the quota mechanism for one seat to a fixed seat, this matter to make political decision making in the DPR more effective, and efforts to democratize in the parliament.

Keywords: Parliamentary Threshold, Democracy, Parliament

1 Introduction

The parliamentary threshold is a threshold requirement for a political party's vote acquisition to enter parliament, which is calculated after each political party's total number of votes is known. The Parliamentary threshold was first applied in the 2009 election, which stipulates in Article 202 paragraph (1) of Law No. 10 of 2008 concerning the General Election for members of the DPR, DPD and DPRD, that political parties participating in the election must meet the threshold for vote acquisition at least 2.5% of the number of valid votes nationally to be included in the determination of seat acquisition for DPR [1][2]. That way, even though a candidate for DPR members gets a majority vote in an electoral district because nationally, the political party's vote acquisition does not reach 2.5%. It is automatically excluded from the distribution of seats.

In the 2014 election, the parliamentary threshold policy increased from 2.5% to 3.5%, while in the 2019 election, it increased to 4%, as stipulated in Article 414 paragraph (1) of Law No. 7 of 2017 concerning General Elections, which states that political parties participating in the election must meet the threshold for obtaining votes of at least 4 of the number of valid votes nationally to be included in the determination of seat acquisition for

DPR members. This problem, too, has caused many reactions in society, especially among legal, political, and other experts [3].

Suppose the parliamentary threshold continues to be enforced. In that case, the democratic concept will not be realized in Indonesia because parties that do not enter the parliament due to not obtaining a parliamentary threshold will be immediately wasted even though they get a high number of votes in election participation. For example, in the 2019 election, of the many new parties that participated in the 2019 election, none could pass the parliamentary threshold. For example, Grace Natalie from the PSI party received 179,949 votes. This figure can only be surpassed by the total votes obtained by PDIP, Gerindra, and PKS in DKI Jakarta III's electoral districts. However, even though Grace Natalie's number of votes was prominent in the electoral district, he could not enter the parliament because PSI did not reach the parliamentary threshold [4].

Supriyanto and Mellaz [5] explained that the implementation of the parliamentary threshold certainly had implications for the wasting/loss of votes or not being converted into seats, resulting in the democratic concept being injured. As in the 2019 elections, around 13,594,842 votes were wasted because they did not reach the threshold [4]. If many voters are wasted or do not convert into seats, this implies disproportionality or reduces the proportionality of seats in the proportional electoral system. If this happens, it is contrary to Article 22E paragraph (3) of the 1945 NRI Constitution, which explicitly requires a proportional electoral system [6]. The weak point of the provision mentioned above lies because voters who do not pass the parliamentary threshold tend not to be considered. It is necessary to abolish the parliamentary threshold. It is an interesting analysis to study; therefore, it is necessary to study the elimination of parliamentary threshold and efforts of democratization in parliament

2 Research Methods

This research is structured using normative juridical research, namely legal research methods, by examining library materials or secondary data. The data analysis technique used is a qualitative data approach by analyzing secondary data to explain an event or phenomenon being studied with the data obtained. The thinking method used is the deductive thinking method, a process of thinking that starts from something general principles, laws, beliefs towards something specific. This research is also oriented towards problem solutions with the statute approach, the case approach, and the conceptual approach. Using this research approach is so that later researchers can produce primary thinking to solve existing problems.

3 Results and Discussion

3.1 Evaluation of the Implementation of the Parliamentary Threshold as a Political Legal Simplification of Political Parties

The enactment of the parliamentary threshold is not new in elections in Indonesia. It is recorded that the implementation of the parliamentary threshold has been enforced with different magnitudes starting from 2.5% in the 2009 election, 3.5% in the 2014 election, and 4% in the 2019 election. On paper, the parliamentary threshold implementation is intended to

create political stability, the national system, so that the presidential system can run without too many obstacles. It means that the lack of political parties in the parliament is expected to accelerate the parliament's decision-making process and support the President's performance as an executive body. However, on the other hand, applying the parliamentary threshold in the DPR is to simplify political parties or prevent new/small parties' entry into the DPR. This motive can be seen very clearly by establishing a parliamentary threshold that is closely related to political factors and party interests [4].

The parliamentary threshold mechanism is basically more profitable for the big parties, which are pretty well established. Therefore, the parliamentary threshold tends to strengthen the emergence of cartel parties. In cartel parties, it is often difficult for new parties to enter the electoral arena and gain support from voters. Political parties that have obtained seats, especially the major coalition and ruling parties, often try to prevent new parties from coming to power and cannot gain seats in parliament. Established parties tend to support the parliamentary threshold application in the elections [7].

For example, Grace Natalie and Tsamara from the PSI party, who could not enter parliament. Grace Natalie participated in the DKI Jakarta III electoral district, covering the cities of West Jakarta and North Jakarta. He received 179,949 votes. Only the total votes acquired by PDIP, Gerindra, and PKS in the DKI Jakarta III electoral district can exceed this figure. The total votes for the other parties were still less than Grace's. PSI itself obtained 236,217 votes in the Jakarta III electoral district. Meanwhile, Tsamara won 140,557 votes in the DKI Jakarta II electoral district. In this constituency, PSI obtained 228,367 votes, defeating Golkar and Democrats [8]. However, even though they received a large number of votes in the Jakarta III and Jakarta II electoral districts, they could not enter parliament because they did not meet the parliamentary threshold.

From these results, it can be seen that there was an injustice in the determination of DPR seats. This injustice can be seen from the use of the parliamentary threshold calculation which is used to determine the parties that can pass to the parliament based on Law No. 7 of 2017. The data we obtained through the KPU RI website, for example, the vote acquisition in DKI Jakarta III electoral district:

Political Parties	Votes	Political Parties	Votes
PKB	76.285	Perindo	61.598
Gerindra	330.033	PPP	41.564
PDIP	643.311	PSI	236.217
Golkar	74.770	PAN	120.568
Nasdem	142.756	Hanura	15.991
Garuda	5.113	Demokrat	129.212
Berkarya	25.622	PBB	20.769
PKS	283.969	PKPI	5.105

From the data above, the DKI Jakarta III electoral district is only fighting for 8 seats in the DPR RI, of which Gerindra has 1 seat, PDIP has 3 seats, Nasdem, PKS, PAN, and Democrats each have 1 seat. The rules regarding the parliamentary threshold do not provide an opportunity for legislative candidates who get the most votes in their electoral districts if their parties do not meet the parliamentary threshold.

The parliamentary threshold rule does not only concern which political party has the right to get seats and exceeds the percentage threshold. However, besides that, the parliamentary threshold also impacted wasted voter votes on parties unable to exceed the parliamentary

threshold's minimum percentage. The 2009 election resulted in 19,047,481 wasted votes [9]. Meanwhile, the 2014 election resulted in 2.9 million wasted votes, and in the last election in 2019, the number of wasted votes rose to 13.5 million votes. Suppose many votes in legislative elections are wasted and cannot be converted into parliamentary seats. In that case, the impact will be disproportionality in allocating seats in the proportional electoral system, which is part of the Indonesian electoral system [10]. Lijphart and Aitkin [11] defines disproportionality as the deviation between the party's seat gains (as a percentage) and the actual seats acquired in parliament (as a percentage). Conversely, with the increasing number of voters who cast their votes for parliamentary seats and the more representative voters are represented in representative institutions, the election results will be increasingly proportional. The ratio itself is influenced by the number of electoral districts and the parliamentary threshold. Many constituencies and the large threshold resulted in the number of votes not being accommodated as seats.

The number of party's vote that could not be converted into seats because the party did not pass the parliamentary threshold, the authors present it in a table with details as follows [12]:

Political Parties	Votes	Percentage	Seat
PKB	13 570 097	9,69%	58
Gerindra	17 594 839	12,57%	78
PDI-P	27 053 961	19,33%	128
Golkar	17 229 789	12,31%	85
NasDem	12 661 792	9,05%	59
Garuda	702 536	0,50%	-
Berkarya	2 929 495	2,09%	-
PKS	11 493 663	8,21%	49
Perindo	3 738 320	2,67%	-
PPP	6 323 147	4,52%	19
PSI	2 651 361	1,89%	-
PAN	9 572 623	6,84%	44
Hanura	2 161 507	1,54%	-
Demokrat	10 876 507	7,77%	54
PBB	1 099 848	0,79%	-
PKPI	312 775	0,22%	-

From the table above, there are parties with votes below the threshold (4%), namely Garuda, Berkarya, Perindo, PSI, Hanura, PBB, and PKPI. Which if we add up the parties that do not enter the threshold, namely 13.595.842 votes. Even though there are many candidates who have a higher number of votes than the other participants in the electoral district, they are stumble by the rule of the threshold.

Three things can be used as a measure to assess whether an election is held democratically or not, namely: whether there is recognition, protection, and cultivation of human rights; there is fair competition from election participants, and building public trust in elections that produce a legitimate government. These three things become an inseparable unity to achieve democratic elections in a country that upholds democratic values [13]. The application of the parliamentary threshold system, which has an impact on election participants who cannot enter the parliament even though the number of votes is high, and the waste of people's votes because political parties do not meet the parliamentary threshold, is something that can reduce the implementation of democratization.

3.2 Simplifying Fractions and Reducing the Number of Seats in Each Election as a Democratization Efforts in Parliaments

Creating an effective government does not mean sacrificing the principle of minority representation in parliament to maintain political stabilization at the national government level. However, political parties are vehicles and bridging between aspirations and policymakers to create a harmonious relationship between the people and the government. According to Danny, if an effective presidential system is to be implemented, he recommends: First, there must be a simple political party system design; Second, it is important to consider building a suitable and limited coalition government (minimum-winning coalition) that is permanent and disciplined; Third, to avoid cohabitation, the presidential and vice-presidential candidates must come from the same political party [14][15].

Forming a solid party coalition system is the main key in realizing a stable government. Because a programmed multiparty system will find it difficult to produce a party strong enough to form a government by itself, so it must form a coalition with other parties [16]. Therefore, a multiparty coalition format in the parliament is needed without applying the parliamentary threshold. The solution that can be done is to simplify fractions.

Referring to Article 12 of Law No. 17 of 2014 concerning MD3, a group consisting of MPR members from various factions reflects the party structure formed to optimize the MPR and its members in carrying out their duties as representatives of the people. The faction consists of DPR members who have the same political views. Faction allows council members to do their job best. Each member of the Council must be a member of the faction. The task of this faction is to coordinate its members' activities to optimize the effectiveness and efficiency of the work of members of the board. The faction is also responsible for evaluating the performance of its members and reporting the evaluation results to the public.

Furthermore, Article 21 of DPR Regulation No. 1 of 2020 concerning Rules of Procedure states that factions can also be formed by combining two or more political parties. Although the formation of a faction can be done by combining two or more political parties, the formation of each faction in the DPR is currently formed by each political party that has passed the parliamentary threshold. It was recorded that nine factions consisted of 9 political parties that passed the parliamentary threshold. The PDIP faction is the fraction with the largest number of seats, namely 128 seats, to the PPP faction with the smallest seats, namely 19 seats.

With the abolition of the parliamentary threshold, parties with votes below 4% can get seats in the DPR. In order to avoid worries about the large number of parties in parliament which will affect the stability of the government, the best way is to simplify the factions in the DPR. It means that it is necessary to establish a rule regarding the minimum number of seats in the DPR to form a faction so that parties with a small number of seats in the DPR must join with other parties to form a new faction. It implies that the context of decision-making in parliament is also simpler.

With the number of seats in the DPR reaching 575 seats, ideally, the minimum fraction formation consists of 10% of the number of seats. It is based on the DPR faction's role in implementing the legislature's functions and duties and the factions that determine the composition of the membership, propose the names of members and replace the complete members of the DPR [17]. Meanwhile, the DPR equipment number consists of 10 tools, including the DPR Leadership; Deliberative Body; Commission; Legislation Body; Budget Agency; BURT; BKSAP; BAKN; The Honorary Council of the Council; and Special Committees. The ideal number of seats to form a faction is at least 55-70 seats per fraction.

Later, each party with the number of seats under these provisions will be required to join and merge to form a new faction. According to the author, this method is much more concrete in forcing parties to form simpler factions. In this way, the merger of political parties in creating factions will lead to two possibilities, namely the creation of a faction in accordance with the party's ideology (for example, nationalist, conservative Islam, moderate Islam), or based on its interests (for example, the government faction, the opposition faction, and the middle party faction).

However, the principle of democracy with the output of presenting representatives in the DPR through conversion of votes that can be even the smallest must be maintained by abolishing the parliamentary threshold and replacing it with a fraction simplification mechanism, prioritizes not only the principle of representation in a democratic country but also creates government stability between the executive and legislative branches at the national level. The biggest job is how each political party will lower its ego and accept the necessity that the multiparty system in Indonesia is inevitable. Therefore, political parties must be more able to adapt to conducting political lobbying to create a qualified force in the parliament that plays a role in creating national political stability.

Apart from simplifying the factions, simplifying political parties in parliament can also be done by reducing each electoral district's number of seats. So far, based on the provisions of Article 187 of Law No. 7 of 2017 concerning General Elections, it states that the number of seats for each DPR Election is 3-10 seats. Logically, the more seats there are in each constituency, the more likely it is that more parties will enter parliament. So that by reducing the number of seats in each electoral district, only the parties with a large number of votes could win seats in their electoral districts, and parties with small votes were automatically eliminated.

It should be noted that in the 2019 election there was an increase in the number of seats in the DPR from the previous 560 seats to 575 seats. According to Deputy Chairperson of the Election Special Committee, Benny K. Harman, the Special Committee on the Election Bill (Law 7 of 2017) has taken into account the area, population growth, as well as the existence of several new expansion areas that underlie the addition of seats. I think this is a bit surprising, considering that so far the determination of the number of seats in the DPR has been determined by the population. The members of the DPR represent the population, represent the people, not the regions. If the reason is because of a large area, it is considered inappropriate, because Indonesia's electoral system is proportional. Compared to other large democracies nations, the DPR RI has a large number of members. Comparing to India that has an area of 3,287,590 square kilometers and a population of 1,307,010,000, while the DPR only has 552 seats. Similarly, the United States has 325,988,000 inhabitants, an area of 9,629,091 square kilometers, and only 435 seats. This means that one seat represents 749,398 people [18].

Another reason for the large number of seats for members of the DPR is because Indonesia has implemented a one-seat quota system, in which the number of seats in the DPR will be determined after knowing the population, so the number of DPR members will change along with changes in the number of residents. In addition, with this system, the division of DPR seats in each province is not the same as the total population of the province. In fact, in a proportional electoral system, the proportionality of the number of seats to the provinces is a must. As a result, some regions have too many seats (over-represented), and some provinces have insufficient seats (under-represented) [19].

As a country that continues to develop and the population growth rate is increasing at 4.5 million people per year, Indonesia should now change the way the number of seats in the DPR

is determined from a one-person quota system to a fixed seat system. With this change, if the population increases, there is no need to increase the number of seats in the representative institutions, but the performance of each member of the representative institutions must be improved. From here on, the reallocation of DPR seats to the provinces based on one person, one vote, one value is more important than increasing the number of seats. In addition to maintaining equality of representation between provinces, rearrangement of seats can also boost the performance of DPR members who so far have more electoral districts and a large number of voters. If redistributed, it can increase the sense of closeness between the people's representatives and the people. For example, the fixed seat system has been implemented by the United States since 1920. The United States has set the number of members of the DPR as many as 435, and it continues to this day. Then, the American method is widely used by other countries, be it countries that have established an established democratic system or countries that are building a democratic electoral system [20].

Simplifying the number of political parties can be achieved by reducing the number of seats in the DPR, for example, to 500 seats as implemented in 1999 and the three previous periods. Then the number of seats that will be the dividing value of the total population to be represented will then be used to determine the electoral district. Therefore, this reduces the number of political parties in the DPR and increases the representative figure proportionately in every region in Indonesia. Simplifying the number of factions or reducing the number of seats in each electoral district followed up by changing the one-seat quota mechanism to become fixed seats provides a real solution to simplify the number of political parties in the DPR. These alternative options can also be combined later so that the more effective political decision-making in the DPR leads to the national government's stability and as an effort to democratize in the parliament.

4 Conclusion

The parliamentary threshold mechanism is basically more likely to benefit big parties that are pretty well established. The enactment of the parliamentary threshold will create an imbalance between the old and new parties. It is because in terms of realizing, campaigning, and disseminating the party's vision and mission, it is very limited and usually only takes place two years before the general election. It was because the new party was always preoccupied with energy-consuming administrative requirements. The parliamentary threshold rule also impacts wasted voter votes on parties that are unable to exceed the minimum percentage of the parliamentary threshold. Suppose many votes in legislative elections are wasted and cannot be converted into parliamentary seats. In that case, the impact will be disproportionality in allocating seats in the proportional electoral system, which is part of the Indonesian electoral system. Based on this, it is necessary to abolish the parliamentary threshold to reach parties with votes below 4% to get seats in the DPR. In order to avoid worries about the large number of parties in parliament which will affect the stability of the government, the best way is to simplify the factions in the DPR or reduce the number of seats in each electoral district which is followed up by changing the quota mechanism for one seat to a fixed seat, and alternative options can also be made; then combined, so as to make political decision making in the DPR more effective, which leads to the stability of the national government and efforts to democratize in the parliament.

Acknowledgements

We would like to thank the Faculty of Law, Universitas Diponegoro, who has supported this research through research funds from the Faculty of Law, Universitas Diponegoro.

References

- [1] E. N. A. M. Sihombing, "Pemberlakuan Parliamentary Threshold Dan Kaitannya Dengan Hak Asasi Manusia," 2018.
- [2] T. S. H. Putra, "Pengaruh Ambang Batas Parlemen Terhadap Keberlangsungan Partai Politik Dalam Sistem Pemilu Di Indonesia," Undergraduate thesis, Universitas Muhammadiyah Sumatera, 2019.
- [3] A. Adelina, "Relevansi Ambang Batas Parlemen (Parliamentary Threshold) dengan Sistem Presidensial di Indonesia." Master thesis, Universitas Islam Indonesia, 2018.
- [4] M. Maftuh, "Parliamentary Threshold Dalam Pemilu Serentak Tahun 2019 (Tinjauan Filosofis Asas Kedaulatan Rakyat)," Undergraduate thesis, IAIN Salatiga, 2020.
- [5] D. Supriyanto and A. Mellaz, *Ambang batas perwakilan: pengaruh parliamentary threshold terhadap penyederhanaan sistem kepartaian dan proporsionalitas hasil pemilu*. Perkumpulan untuk Pemilu dan Demokrasi, 2011. Retrieved from <http://perludem.org/wp-content/plugins/download-attachments/includes/download.php?id=223>.
- [6] H. B. Wolo, "Problematika Penentuan Ambang Batas Parlemen Untuk Pemilihan Umum DPR RI," Master Tesis, Universitas Atma Jaya Yogyakarta, 2015.
- [7] K. Marijan, *Sistem politik Indonesia: Konsolidasi demokrasi pasca orde baru*. Jakarta: Kencana, 2019.
- [8] M. Maftuh, "Parliamentary Threshold Dalam Pemilu Serentak Tahun 2019 (Tinjauan Filosofis Asas Kedaulatan Rakyat)," Undergraduate thesis, IAIN Salatiga, 2020.
- [9] Y. Pamungkas, "Tinjauan Ambang Batas Perolehan Suara berdasarkan Undang-Undang Nomor 8 Tahun 2012 tentang Pemilihan Anggota Dewan Perwakilan Rakyat, Dewan Perwakilan Daerah dan Dewan Perwakilan Rakyat Daerah terhadap Undang-Undang Dasar 1945," *J. Rechts Vinding Media Pemb. Huk. Nas.*, vol. 3, no. 1, pp. 33–50, 2014.
- [10] F. P. P. Ginting and A. Saragih, "Ilusi Demokrasi Substansial di Indonesia: Sebuah Kritik Terhadap Impementasi Parliamentary Threshold," *Polit. J. Ilmu Polit.*, vol. 10, no. 2, pp. 79–90, 2018.
- [11] A. Lijphart and D. Aitkin, *Electoral systems and party systems: A study of twenty-seven democracies, 1945-1990*. New York: Oxford University Press, 1994.
- [12] Badan Pusat Statistik, "Statistik Politik 2019: Pemilu 1955-2019", 2019.
- [13] Tim FH UNJA, "Demokrasi dan Pemilu yang Demokratis," *Faculty of Law, Universitas Jambi*, 2018. Retrieved from <https://law.unja.ac.id/demokrasi-dan-pemilu-yang-demokratis/>.
- [14] B. Hasibuan, *Pemerintahan yang Terbelah*. Jakarta: Kompas, 2007.
- [15] N. Huda, *Penataan Demokrasi dan Pemilu di Indonesia*. Jakarta: Kencana, 2017.
- [16] A. R. Yuda, *Hanta, Presidensialisme Setengah Hati Dari Dilema Ke Kompromi*. Jakarta: Gramedia Pustaka Utama, 2010.
- [17] Iswanto A., "Peranan Fraksi PDR RI (Studi Kasus Peran Fraksi PG, Fraksi PKS, dan Fraksi PPP dalam Penentuan Ambang Batas Parlemen dalam Pembahasan Rancangan Undang-Undang tentang Perubahan atas Undang-Undang Nomor 10 Tahun 2008 tentang Pemilihan Umum Anggota DPR, DPD," 2013. <http://lib.ui.ac.id/naskahringkas/2015-08/S44060-Andi%20Iswanto>.
- [18] Pusat Studi Konstitusi (PUSaKO) Fakultas Hukum Universitas Andalas, "Evaluasi Rencana Penambahan Jumlah Kursi DPR"
- [19] Heroik Mutaqin Pratama, "Proporsionalitas Kursi Parpol di DPR", Kompas, hlm. 6, 2017.
- [20] Ramlan Surbakti, dkk, "Menyetarakan Nilai Suara: Jumlah dan Alokasi Kursi DPR ke Provinsi", Jurnal Kemitraan Bagi Pembaruan Tata Pemerintahan, Seri Demokrasi Elektora

Buku 4, Cetakan Pertama, 2011.