



The Urgency of Introduction Elections in the Mechanism of the Presidential Nomination in Indonesia

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Abstract

Preliminary elections are urgent to be implemented in the presidential nomination system in Indonesia. This needs to be done as an effort to create a more democratic and open mechanism for the presidential nomination, as well as a solution to determine the figure of the presidential and vice presidential candidates who will be elected in the general election, who really have high electability in society. Therefore, it is necessary to revise the Election Law, especially those related to the mechanism for nominating the President and Vice President.

Keywords: *Urgency; Preliminary Election; Nomination; President; Indonesia*

Introduction

The mechanism for presidential nomination in the electoral system in Indonesia is still dominated by political parties and is elitist in nature. The nominations for President and Vice President are not yet democratic and involve public participation. The presidential candidacy process in the internal political parties is mostly carried out through the mechanism of national meetings such as congresses/national conferences/congress and others, where the position of the general chairman of the political parties is very decisive in deciding the presidential candidate to be proposed by the political party.

Presidential nominations in Indonesia have not been carried out openly and involve broad public participation, because there are factors that hinder, among others, first, the existence of a presidential nomination threshold requirement (Presidential Threshold). Second, the regulations governing the mechanism for presidential nomination that are democratic and participatory are not yet complete. The

threshold/PT which requires 20% of the seats in the DPR or 25% of the national valid votes as a result of the legislative elections (Article 222 of Law No. 7 of 2017) is one of the obstacles for political parties to implement presidential nominations freely and independently, because they are bound by the obligation to fulfill Sufficient seats or votes for presidential nomination, so that for political parties that have seats or votes below the threshold, they are forced to join (coalition) with other parties. While the merger of political parties requires an agreement on who the presidential and vice presidential candidates will be, of course it will not be easy to decide, because each political party has its own interests and presidential candidates, so pragmatic considerations often come to the fore compared to ideological reasons and shared visions. Therefore, the threshold/PT is important to be removed from the presidential nomination mechanism in Indonesia so that all political parties can nominate President and Vice President freely, independently and democratically. so that pragmatic considerations often take precedence over ideological reasons and shared visions. Therefore, the threshold/PT is important to be removed from the presidential nomination mechanism in Indonesia so that all political parties can nominate President and Vice President freely, independently and democratically. so that pragmatic considerations often take precedence over ideological reasons and shared visions. Therefore, the threshold/PT is important to be removed from the presidential nomination mechanism in Indonesia so that all political parties can nominate President and Vice President freely, independently and democratically.

In this paper, the author will focus more on the second issue, namely the incomplete regulation that regulates the mechanism for a more democratic and open presidential nomination. Actually, there are regulations governing the mechanism of nomination within political parties, but they are not mandatory. Article 223 of Law Number 7 of 2017 concerning Elections states, "The determination of presidential candidates and or vice presidential candidates is carried out democratically and openly in accordance with the internal mechanism of the political party concerned". These provisions are not clear to regulate the procedures and procedures for the nomination of President in detail. Although there are words "Democratic and "Open", but the implementation is very relative because it is left to the internal mechanisms of Political Parties, so it really depends on the procedures adopted by each political party and which often happens is elitist and closed. Therefore, the author is interested in examining the issue of the mechanism for the nomination of President.

Method of Research

This type of research is a normative legal research. There are 3 (three) approaches used, namely conceptual, statutory, and comparative approaches. The data source used is secondary data, which in legal research is commonly referred to as legal material. The legal materials used consist of primary legal materials in the form of statutory regulations, and secondary legal materials including reference books, journal articles and research reports. The method of data collection is done through a literature search. Analysis of data or legal materials is carried out by analytical prescriptive.

Results and Discussion

If the threshold/PT is removed from the Election Law so that political parties have the freedom to nominate the President and Vice President, it is necessary to regulate a more democratic mechanism for the nomination of President and Vice President by increasing public participation and fair competition among the candidates for President and Vice President. Robert A. Dahl stated the importance of democratic procedures in the election of public officials, including the President. The democratic procedure referred to by Dahl is fair competition among candidates and public participation to determine the winner of the competition. [1]

Furthermore, Dahl explained the two democratic procedures as follows.

First, fair competition among candidates is that candidates or those who meet the objective qualifications for and have ambitions to occupy a top position in the government will compete with each other fairly to convince the people who are entitled to vote based on their program strengths, abilities and personal integrity. The competition was conducted in an honest and fair manner, meaning that the participants of the competition not only had equal opportunities but also had more or less balanced means. Concretely, all candidates have a relatively balanced amount of funds and other means obtained by means, sources, and amounts mutually agreed upon in the Act. [1]

In addition to the same opportunities and means, competition to attract people's attention is also carried out in a transparent and persuasive manner. The method used to attract people's attention is not by intimidation but by persuasion, not by mobilization, but by dialogue between equal parties. Anything that is done to attract people's sympathy is done in a transparent manner, not secretly so that it can be known and assessed by the public. [1] Therefore, if this principle is applied starting from the nomination stage for President and Vice President, it will be very competitive and fair for all candidates, because they have the same opportunities and opportunities to win the hearts of the people.

The second procedure, namely public participation, is described by Dahl as follows.

Public participation means that those who judge and make decisions about fair competition are sovereign people, especially citizens who have the right to vote. Public participation like this is usually done through direct, general and free elections. This participation will be possible if the election is held not by one of the contestants, but by an independent institution that does not take sides except for the principle of sovereignty itself. [1]

Public participation or public involvement must be opened as wide as possible in determining the appropriate leader to lead. The elected leader is the embodiment of the will of the majority of the people, not only as the desire of some of the power elite, the elected leader is indeed desired by the majority of the people who have the right to vote.

Regarding public participation, Afan Ghaffar[2]also provides a formulation of democratic principles, one of which is open political recruitment, which means that every citizen who meets the requirements to fill certain positions chosen by the people can compete for these positions.

Therefore, the democratic procedure presented by Robert A. Dahl and Afan Ghaffar can be one of the parameters to measure the degree of democracy in the general election system in various countries, including Indonesia. In this study, the theory of democratic procedures is used to analyze the formulation of the mechanism for the nomination of President and Vice President in the future, after the abolition of the threshold/PT, because the threshold/PT hinders the process of democratically nominating President and Vice President among political parties.

Political leadership cannot be ignored and needs to be the main concern of political parties and the public. No matter how good the system is, if the chief executive (President) does not have a leadership spirit, then the government will not run optimally. Governability will be effective, one of the factors is leadership. [3] Arbi Sanit said that proven leadership was not only the best in qualifications, namely integrity or character, and leadership capability, and popularity as well as being visionary, but also daring to take risks and take responsibility for the implementation of state and community duties as well as nationality apart from physical endurance. [3]

To useTo produce such a leadership model, it is necessary to apply good and democratic recruitment or nomination. The nomination system to become president as in the United States deserves

to be a reference, namely through the convention mechanism: there is a primary election (Premier Election). [3]

Nomination or candidacy is an important initial process in a series of electoral systems. The various methods for nominations in the Presidential Election must basically meet the following standards: “(1) help secure vigorous competition between the parties, (2) maintain some degree of cohesion and agreement within each party, (3) produce nominees who are likely to win voter support, (4) produce nominees who are reasonably well qualified, (5) lead to the acceptance of the nominees as legitimate, and (6) result in officeholders who are capable of governing effectively”. [4]

Based on these standards, the presidential election using any method must be able to create strong competition between the parties, maintain the cohesiveness of political parties and agreements within each party, produce candidates who are supported by the majority of voters, meet the requirements and are legitimate. Presidential nomination can produce officials who are able to run the government effectively.

In addition to the question of the threshold / PT, the problem of candidacy in the electoral system in Indonesia is increasing with the existence of nomination obligations. On the one hand, the submission of pairs of candidates for President and Vice President is mandatory for political parties or combinations of political parties that meet the requirements. Article 235 of Law no. 7 of 2017 requires political parties that meet the requirements to nominate presidential and vice presidential candidates. The article reads, "In the event that a political party or coalition of political parties that meets the requirements to nominate a pair of candidates does not nominate a candidate pair, the political party concerned is subject to sanctions for not participating in the next election".

However, on the other hand, the mechanism for submitting a candidate pair is shackled by a threshold/PT, so that political parties cannot freely apply their candidacy process. With a high threshold, big parties become more fully empowered to nominate a candidate pair, while small parties are only able to support their candidacy by hoping for electability compensation, political dowries or other positions in the cabinet when the candidate wins the election. [5]

The phenomenon of the candidacy process in the 2019 presidential election is clear, the emergence of presidential candidates who tend to be favored by political parties, so that there is almost no chance of candidates emerging from below. Most parties do not give their members and cadres the opportunity to participate in choosing a proper political leader. There is no preliminary election process that allows members, cadres, and party officials at all levels to determine who the presidential candidate or vice president candidate is considered to have the capacity, visionary, and qualifications needed by our nation, at least for a period of 5-10 years. forward. Ironically, there is almost no public debate about the urgency of the primaries for presidential and vice presidential candidates, although a number of parties, including academics, [6]

The impact of the above trend is the closing of opportunities for the best party cadres to run as presidential or vice presidential candidates. The wider implication of this reality is the institutionalization of the candidacy process which tends to be closed, elitist and oligarchic, so that it is as if the candidacy process for presidential and vice-presidential candidates is only limited to the rights of party elites. One of the important factors behind this reality is the development and growth of leadership that tends to be personal and oligarchic in most parties. In some political parties, the General Chair, who is also the founder of the party, even has absolute power, so that the party is completely identical to the General Chair, so whatever the choice of the General Chairperson, that is the party's decision. [6]

The difficulty of nominating candidates in the presidential election with the provisions of the threshold/PT is not only holding political parties hostage, but also presidential and vice presidential

candidates. Potentially qualified candidates as presidential and vice presidential candidates can only participate in the presidential election if they are supported by a party or coalition of parties that has a large political power base in the previous election period. This makes the relationship of party support to the presidential and vice presidential candidates transactional. [6]

The mechanism for the primaries by parties or coalitions of parties is an important strategy to prevent the process of recruitment and selection of presidential/Vice President candidates based solely on pragmatic and elitist interests. The preliminary election mechanism that is carried out openly and objectively will encourage parties to select candidates who are indeed the best in terms of capacity, integrity and ability to carry out the party's vision-mission/ideology. Not only that, this mechanism can also minimize the potential for strengthening oligarchs within political parties. [6]

As a comparison, the author takes the example of the implementation of the Preliminary Election in the United States. There are several stages that must be passed by a candidate to be able to take part in the Presidential Election in the United States (US). Stages in the US Presidential Election include the Preliminary Election, Campaign and Election (Electoral College). Next, the writer will describe the steps one by one.

The First Stage, the Preliminary Election (Primary Election). The first step to entering the US presidential nomination began with the holding of early primary elections in Iowa and New Hampshire. Primary elections were held in both states in February, while primaries in other states were held in March and June. This primaries has an important influence in the presidential election process because it will determine whether the presidential candidate will proceed to elections in other states with a larger area or not. This primaries will determine how much support will be given to the presidential candidates. Because of this, many presidential candidates withdrew from the electoral process after losing these primaries in Iowa and New Hampshire [7]

In addition to the primaries, political parties also have other procedures in determining the delegates who will choose the presidential candidate in the national convention, namely through state caucuses and superdelegates. For example, in 2008, more than two-thirds of the Democratic Party's convention delegates were elected from the primaries, 19% were superdelegates and 12% were elected by caucuses or state conventions. The other two procedures are the initial procedures that appear in every process of selecting a presidential candidate for the US election.

State caucuses were the method commonly used by the United States prior to 1972 to select presidential candidates based on decisions of party leaders. Through this caucus method, party leaders automatically get seats as delegates in the convention to determine presidential candidates. Therefore, the party leadership has great power to control the outcome of this presidential nomination. [7]

Superdelegation is a way of selecting delegates for national conventions that emerged as an effort to reform the caucus method. Superdelegation makes control of presidential nominations by the party not only by party elites in management at the state level, but also makes senators, governors, former presidents, former vice presidents, and congressional leaders as delegates at the convention. Like the caucuses, the seats of the superdelegates are also automatically awarded without a prior selection process. [7]

After the three processes are carried out, the national convention is ready to be implemented to select the presidential candidate who will be nominated by political parties in the general election. Trends in the ideological position of political parties are reflected in the presence of groups of political activists who become delegates at national conventions, where the Democratic delegation is a group of liberals and the Republicans are filled with a group of conservatives. This shows that national conventions are not

only a means to determine presidential candidates, but also reflect the party's position on certain political ideologies and political issues. [7]

With this preliminary election, there is a test in the form of open competition or battle in front of various groups of people ranging from the elite and middle class and the common people to various primordial groups and age and sex status. All such examinations must be passed with the best score among all the contestants taking advantage of the opportunity. Thus, the election as an institution must be used by prospective leaders, the first time it must really provide a competition mechanism in the form of only two options or choices, namely winning and losing or majority and minority. The substance of the competition is intended to consist of a track record of integrity and capability as well as a vision in addition to the popularity of the candidate. [6]

With the abolition of the threshold/PT requirements, it will open up opportunities and provide opportunities for Political Parties to nominate presidential and vice presidential candidates that are close to these standards, especially in terms of quality and accountability. The party has an important role in bringing out the best cadres or opening up opportunities for people outside the party to contest the presidential nomination openly and democratically.

When it is not regulated by law, it should be included in the Articles of Association/Budgets (AD/ART) of a political party. However, this principle was not implemented. This can be proven by the implementation of Preliminary Elections as an effort to create democratic institutionalization of political parties in the absence of a mechanism for nominating presidential and vice presidential candidates who are promoted by political parties or a combination of political parties in the AD/ART of a number of political parties. Even in the political reality, nominations are carried out in a monocentric manner where the role of the general chairman of a political party is very vital. There is a tendency that anyone who later wants to become a presidential candidate or vice presidential candidate must become the general chairman or have a close relationship with the general chairman of a political party.[8]

Taking into account the phenomenon of the presidential nomination, the primary election is very relevant to be applied. The concept of the primaries itself is interpreted as a system in which voters can choose candidates from the party in general, local and national elections. Apart from the United States and France. Preliminary elections were also adopted in several political parties in a number of democratic countries such as Denmark, France, Finland, Greece, Italy, Israel, Japan, Norway, and the UK.

Despite these long running negative effects, primary elections are of key interest as there is a growing number of political parties in Western democratic countries as well as in Latin American countries, with interests in incorporating such procedures to their governing constitutions. Kenig (2009) shows that the selection of party leaders has gone through a considerable shift during the last three decades and some of the political parties in Denmark, France, Finland, Greece, Italy, Israel, Japan, Norway and the UK have incorporated primary elected to select their leaderships. [9]

This system has proven to be very effective, because the primaries will open up opportunities for everyone to become a presidential candidate, even if they do not have any relationship or closeness with the party elite. This can be shown by the emergence of Barack Obama, who is an ordinary citizen from a minority group who succeeded in defeating the elite of the Democratic Party Hillary Clinton or Donald Trump, who, despite being opposed by many Republican elites, remained a Presidential Candidate because the voters wanted him to. [10]

Actually, there are minimalistic provisions that regulate the nomination mechanism or the nomination of the President and Vice President of the Indonesian model. Article 223 of Law 7/2017 states, "The determination of presidential candidates and or vice presidential candidates is carried out democratically and openly in accordance with the internal mechanism of the political party concerned".

These provisions are not clear to regulate the procedures and procedures for the nomination of President in detail. Although there are words "Democratic and "Open", but the implementation is very relative because it is left to the internal mechanisms of Political Parties, so that often what happens is elitist and closed.

Indeed, this can be understood considering the "autonomous" nature of political parties, but in the context of no threshold, the regulation regarding the operationalization of a democratic and open system should be regulated in more detail. This is also due to the fact that Indonesia with its multi-party system will have the potential for many mechanisms for internal conventions of each political party.[11] Therefore, it is important that it is regulated more clearly and in detail in the Election Law and must be implemented by all political parties participating in the election, with a democratic mechanism and involving broad participation by members and sympathizers of their respective political parties.

The implementation of the primaries needs to be carried out as an effort to create democratic political party institutionalization, besides that as an alternative solution to ensure that the figure to be chosen by political parties to be promoted as presidential or vice presidential candidates is truly in accordance with the will of the people's choice. However, this system is indeed difficult to implement if the presidential threshold is still used as a condition for the nomination of President and Vice President. This is because with the presidential threshold, political parties are forced to make compromises and bargain with other political parties to carry presidential candidates.

By opening as many opportunities as possible for political parties to nominate candidates for President and Vice President without being limited by the nomination threshold, the process of primary elections can also be carried out. This scheme will indirectly open up opportunities for figures with integrity and quality to appear on the national political stage even though the candidate is not affiliated with a political party or has no personal affinity with the general chairman of a particular political party.

Conclusion

1. The implementation of the Preliminary Election in the mechanism for nominating the President and Vice President in the electoral system in Indonesia is very urgent to be realized, because it will open up opportunities for everyone who has the leadership and intellectual capacity to lead the country. The implementation of the primaries regulated in the Election Law will force political parties to submit the mechanism to the sovereignty of their constituents, so that patterns of nomination based on proximity, position or material will slowly disappear.
2. It is important to revise Article 223 of Law Number 7 of 2017 concerning General Elections by adding an obligation for political parties to implement Preliminary Elections by opening registration to every Indonesian citizen and elections involving Party constituents democratically.

Reference

- [1] R. Surbakti, *Reformasi Kekuasaan Presiden*, Jakarta: PT Grasindo, 1998, p. 25; 28; 29.
- [2] A. Gaffar, *Politik Indonesia Transisi Menuju Demokrasi*, Yogyakarta: Pustaka Pelajar, 2001.
- [3] S. Y. d. M. Nurhasim, "Mencari Sistem Pemilu dan Kepartaian yang Memperkuat Sistem Presidensial," *Jurnal Penelitian Politik*, vol. 10, no. 2, p. 110; 111, Desember 2013.

- [4] N. W. P. (Et.al), Presidential Elections: Strategies and Structures of American Politics, Fourteenth Edition ed., Rowman and Littlefield, 2016, p. 223.
- [5] R. I. H. (Ed.), Pemilu Serentak 2019, Sistem Kepartaian dan Penguatan Sistem Presidensial, Jakarta: Yayasan Pustaka Obor Indonesia, 2020, p. 314.
- [6] S. Haris, "Kecenderungan Kandidasi dan Koalisi Pemilu 2019," in *Partai Politik dan Pemilu Serentak 2019, Kandidasi dan Koalisi*, R. I. H. (Ed.), Ed., Jakarta, Yayasan Pustaka Obor Indonesia, 2021, pp. 434; 434-436; 314-315; 321.
- [7] A. P. Budiatri, "Pemilu Presiden Amerika Serikat," *Jurnal Penelitian Politik*, vol. 10, no. 2, p. 167; 168, Desember 2013.
- [8] A. G. Mahardika, "Penerapan Pemilihan Pendahuluan sebagai Upaya Menciptakan Pelembagaan Partai Politik yang Demokratis," *Jurnal Wacana Politik*, vol. 4, no. 2, pp. 122-123, Oktober 2019.
- [9] P. A. (et.al.), "Closed Primaries Versus Top-Two Primaries," *Public Choice*, p. 2, 12 April 2016.
- [10] M. S. Quader, "Perception of Leadership Styles and Trust Across Cultures and Gender: A Comparative Study on Barack Obama and Hillary Clinton," *South Asian Journal of Management*, vol. 18, no. 2, pp. 30-59, 12 April 2011.
- [11] R. R. d. R. Salman, "Pencalonan Presiden dan Wakil Presiden dalam Sistem Pemilu Tanpa Ambang Batas," in *Prosiding Konferensi Nasional Hukum Tata Negara Ke-5: Tantangan Menjaga Daulat Rakyat Dalam Pemilihan Umum*, Batusangkar, 2019.

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