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The Impact of Parliamentary Threshold on Non-Parliamentary Parties in the 2024 General Election from the Perspective of Fiqh Siyasah

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Abstract: This study examines the impact of the parliamentary threshold on non-parliamentary parties in the 2024 General Election through the lens of fiqh siyasah, an Islamic legal perspective on politics and governance. The study explores how the threshold policy affects the political participation, electoral strategy, and sustainability of non-parliamentary parties in Indonesia. Using a qualitative descriptive approach, data were collected through in-depth interviews with political figures, content analysis of policy documents, and direct observations of campaign activities. The findings reveal that the parliamentary threshold poses significant challenges for non-parliamentary parties, limiting their representation and political influence. However, from the perspective of fiqh siyasah, these parties adopt strategic measures such as coalition-building, grassroots mobilization, and issue-based campaigns to remain politically relevant. The study concludes that the parliamentary threshold, while intended to stabilize governance, also raises concerns regarding political inclusivity and representation. In the framework of fiqh siyasah, an equitable political system should ensure fair opportunities for all political entities to contribute to democratic governance and public welfare.

Keyword: Parliamentary Threshold, Non-Parliamentary Parties, 2024 General Election, Fiqh Siyasah, Political Representation.

INTRODUCTION

General elections in Indonesia are one of the crucial moments in the democratic process that determines the composition of parliament and the direction of state policy. Political parties play a central role in this political dynamic, where each party seeks to obtain as many votes as possible to ensure its representation in parliament (Adam et al., 2021).

Non-parliamentary parties are parties that do not have representation in the House of Representatives because they do not pass the parliamentary threshold, including the Indonesian Solidarity Party (PSI), PERINDO and the United Development Party (PPP). PSI and Perindo are new parties, while the United Development Party (PPP) is one of the political parties that has a long history in the Indonesian political scene. Since the reformation, PPP has continued

to maintain its heterogeneous voter base, which includes various groups of people from a broad social and religious spectrum.

However, in the context of the 2024 elections, the Indonesian Solidarity Party (PSI), Perindo and PPP are faced with new challenges presented by the parliamentary threshold. The parliamentary threshold is a minimum vote requirement that must be achieved by a political party to gain seats in parliament. In some electoral systems, the parliamentary threshold can be a barrier for small parties or parties with a dispersed voter base that is not homogeneous (Rannie & Heydir, 2020).

The problem of the parliamentary threshold is very much related to the welfare of the people because it has an impact on politics in Indonesia. One of the impacts of this policy is the Indonesian Solidarity Party (PSI) which was formed on November 16, 2014 and Perindo which was formed on October 8, 2014, which are small and new parties that are required to fight more optimally in order to have representatives in parliament. Then the PPP, which is an old Islamic party, a party that is synonymous with Islam, where in Indonesia the majority of the population is Muslim, so it is interesting if it is related to the study of fiqh siyasah (Fadlillah, 2022).

According to Imam Malik as quoted by Imam Syatibi in the book *al-Itisham* is a *maslahat* in accordance with the objectives, principles, and postulates of *syarak*, which serves to eliminate narrowness, both *dharuriyah* (primary) and *hujjiyah* (secondary).

The theory of fiqh siyasah refers to Islamic political theory that includes law and policy principles. In the context of this question, we will discuss the impact of the parliamentary threshold on the Indonesian Solidarity Party, Perindo and the United Development Party (PPP) in the 2024 general election from the perspective of fiqh siyasah.

1. **Parliamentary Threshold:** Parliamentary threshold is the minimum vote requirement needed for a political party to gain seats in parliament. In different countries, this threshold varies, but the aim is generally to promote political stability by reducing parliamentary fragmentation.
2. **Impact on PSI, Perindo and PPP:** PSI and Perindo are parties that have gained support from young people while the United Development Party (PPP) is a political party in Indonesia that has a support base from conservative Muslims. In the context of the parliamentary threshold, the impact could be mixed:
 - a) **Advantages:** If PSI, Perindo and PPP are able to exceed the parliamentary threshold, they can maintain or increase their seats in parliament. This allows them to remain relevant in policy-making and the national political process.
 - b) **Challenge:** If PSI, Perindo and PPP do not reach the parliamentary threshold, they may lose their seats or political representation in parliament. This could reduce their influence in the political decision-making process and reduce their ability to represent the voices of voters who support conservative Islamic ideologies.
3. **Fiqh Siyasah Perspective:** From a fiqh siyasah perspective, there are several relevant principles:
 - a) **Maqasid al-Shariah (Purpose of Sharia):** This principle emphasizes the need to maintain justice, security and social welfare. Parliamentary thresholds can be seen as an attempt to achieve political stability that can support this maqasid.
 - b) **Maslahah (public good):** The concept of public good is an important principle in considering the impact of parliamentary thresholds on political parties. The pursuit of the public good may justify arrangements such as these thresholds, provided that they do not impede justice or essential political freedoms (Silvanti et al., 2024).

By considering these principles, analysis from a fiqh siyasah perspective can provide a deeper look into how the parliamentary threshold may affect PSI, Perindo and PPP as well as other political parties in the context of the 2024 general elections in Indonesia.

PSI, Perindo and PPP, with their dispersed and heterogeneous young voter bases, must face an important strategic question: how will these parties navigate the challenges posed by

the parliamentary threshold in their efforts to remain relevant and gain seats in parliament in the 2024 elections? What impact will this policy have on political representation and democratic participation from a fiqh siyasah perspective?

This research aims to explore the political dynamics involving PSI, Perindo, and PPP in the context of the 2024 elections, focusing on the influence and implications of the parliamentary threshold in Indonesia's democratic system, as well as analyzing the strategic responses taken by PSI, Perindo and PPP in facing this challenge.

Arguments about simplifying political parties always start with the negative. The large number of political parties is considered to cause fragmentation, leading to ineffective decision-making due to differences in ideology and party perspectives in solving problems. This is because a multi-party system supported by a proportional electoral system can give birth to so many political parties. When there are many political parties in the parliament, it will experience polarization and fragmentation, which in turn complicates the decision-making process in the legislature. Examples and cases shown by the DPR are the use of the right of interpellation, the right of inquiry, and others, which are sufficient evidence. Therefore, there must be a concept that can simplify the number of political parties in order to create a simple multi-party system (Benny & Maharani, 2024).

Since the New Order authoritarian regime collapsed in May 1998, Indonesia has enacted four political party laws, in the order in which they were enacted in the run-up to elections. It was easy to form a political party in the run-up to the 1999 elections: just 50 people agreed, then a notarial deed was drawn up. The requirements to form a political party were tightened in the run-up to the 2004 elections. Parties had to have administrators and offices in 50% of the province and 50% of the districts/cities in the province. In addition, the party must be supported by at least fifty people and the deed of establishment must be drawn up before a notary public.

Given the number of new political parties registering with the MOLHR, these requirements are apparently still considered too lenient. Therefore, the requirements to establish a party were tightened again ahead of the 2009 elections. The founders are still 50 people, but 30 percent must be women. Furthermore, political parties must have administrators and offices in 60% of provinces, 50% of districts/cities, and 25% of sub-districts (Wibawanti, 2009).

The requirements for establishing a political party have been tightened again ahead of the 2014 General Elections as many community groups wish to establish one. Although the founders of a political party before a notary remains 50 people, with 30% women, the founders must come from each province. In addition, political parties must have administrators and offices in 100% of provinces, 75% of districts/cities, and 50% of sub-districts in each district/city.

Table 1. Political Parties Not Eligible for Election

Year	Political Party		Political Party Election Participants	%
	Registering with the Commission	with the Commission		
1999	110		48	43,63
2004	50		24	48,00
2009	68		38	55,88
2014	54		12	22,22
2019	27		14	51,85
2024	24		24	100%

Political parties that are legally incorporated cannot automatically become election participants. To become an election participant, it must go through an administrative process carried out by the organizers. In Law No. 3/1999, political parties that want to participate in general elections must have a management that covers more than half of the provinces in

Indonesia and more than half of the number of regencies or municipalities in each province. This requirement was later tightened by Law Number 12 Year 2003 and Law Number 10 Year 2008 to a minimum of 2/3 of the total number of provinces and a minimum of 2/3 of the total number of regencies. The requirement for political party management was tightened again after Law No. 8/2012 was passed. It must meet at least 75% (seventy-five percent) of the province and half/50% (fifty percent) of the districts in the province. All election-related devices were combined into one law after Law No. 7/2017. As a result, simultaneous national elections were held to elect candidates for President and Vice President, members of the DPR, DPRD, and DPD. It seems that the rules do not change the way political parties participate in elections. The difference is that they must have a membership card and have at least 1000 (one thousand) members or 1/1000 (one thousandth) of the population in the management of the political party. Furthermore, this law tightens the process of becoming an election participant, requiring the KPU to re-verify all information on political parties registered as election participants. This is done to reduce the participation of political parties in this regulation, so that there are not too many political parties (Sukmawan & Pratama, 2023).

Of the 110 political parties that joined Team Eleven, only 48 were allowed to participate in the 1999 elections after a verification process. Therefore, more than 50% of the 52 political parties were not eligible to contest the election. Of the 50 political parties registered with the KPU for the 2004 elections, only 24 were recognized as election participants, including six major parties that had crossed the electoral threshold in the 1999 elections and were not verified.

In accordance with Articles 315 and 316 of Law No.10 of 2008, the General Election Commission (KPU) announced that out of a total of 68 political parties that registered as candidates for the 2009 elections, 18 political parties had passed the KPU's factual verification and were eligible to participate in the 2009 elections, along with 16 other parties that already had representation in the DPR. However, over time, the Constitutional Court ruled that all political parties that participated in the 2004 elections were eligible to participate in the 2009 elections. The KPU designated four additional political parties as participants in the 2009 elections, adding a total of 38 political parties, including 4 local parties, based on the Jakarta Administrative Court's decision No. 104/VI/2008/PTUN.JKT (Sultan et al., 2022).

After the enactment of Law No. 8/2012, 46 political parties registered with the KPU as candidates for the 2014 elections. The other 9 parties were 2009 election participants who won in the DPR from 2009 to 2014. At first, the KPU passed 34 parties that qualified with a minimum of 17 documents to register (Fauziah, 2016). Then, in accordance with the provisions of Law No. 8/2012, the KPU announced that only 10 political parties were eligible to participate in the 2014 elections. However, at a later time, several political parties that did not pass the verification to the State Administrative Court challenged the KPU's decision. Finally, two political parties, PBB and PKPI, challenged the PTUN's decision, so at that time there were 12 political parties and 3 local parties (Prasetyo et al., 2022).

After the enactment of Law No. 7/2017, only 14 of the 27 parties that registered met the national administrative and factual verification requirements. This verification was conducted at the central level and included a permanent office of the DPP, the core management of the party, and a minimum of 30% female representation. At the provincial level, additional requirements were membership in 75% of districts/cities and 100% of 34 provinces. The last requirement, which includes the status of distribution of administrators in at least 50% of sub-districts in 75% of districts/cities in 34 provinces, has been met. It is possible that laws made to simplify political parties have reduced the number of political parties participating in elections

METHOD

This research is library research, legal research conducted by examining library or secondary materials only. Normative juridical research discusses doctrines or principles in law. Refers to legal norms contained in legislation and court decisions as well as legal norms that

exist in society. This research is descriptive in nature, namely research that is explanatory, and aims to obtain a complete picture of the state of the law that applies in a particular place, or regarding existing juridical symptoms, or a legal event that applies in a particular place, or regarding existing juridical symptoms, or a certain legal event that occurs in society. The data analysis technique used by the author in this study, namely by using the Content Analysis method, which is a method used to identify, study and then analyze what is being investigated.

RESULTS AND DISCUSSION

The Effect of Parliamentary Threshold on the Opportunities of Non-Parliamentary Parties in General Elections

The Parliamentary Threshold is the number of valid votes that a political party must exceed. Countries that implement a proportional electoral system, including Indonesia, use the parliamentary threshold as a technical tool for general elections. *Threshold, electoral threshold, presidential threshold, and parliamentary threshold* are basically the same, i.e. a threshold that must be exceeded by a political party in order to send its representatives. Usually, this threshold is represented by the percentage of valid votes or the minimum number of seats. This means that political parties that do not qualify to become members of parliament cannot elect representatives. As a result, the votes they get are considered forfeited (Bachmid, 2020).

Thresholds according to Arend Lipjhart are the minimum votes obtained by political parties participating in the election to get seats at the district level or the minimum percentage that must be obtained by political parties participating in the election from the total national voter participation. Meanwhile, August Mellaz defines threshold as the limit that must be reached by political parties to send their representatives to representative institutions. *Threshold, electoral threshold, or parliamentary threshold* is usually represented by a percentage of valid votes. In some countries, it can be represented by minimum seats, which is a term often used in the context of elections.

The parliamentary threshold in Indonesia is the requirement for a political party's votes to enter parliament. So, after knowing the number of votes of each political party, then divided by the number of national votes. The parliamentary threshold has several purposes, including:

1. Establish a simple multi-party system, which minimizes the number of political parties in parliament;
2. Strengthen political parties and parliament;
3. Enhance and improve mechanisms and procedures for the recruitment of public officials;
4. Strengthening the presidential system after the realization of a simple multi-party system;
5. Improving the quality of public services when the government system runs with effective (Fadlillah, 2022).

The parliamentary threshold was first used in the 2009 elections. Article 202 of Law No. 10/2008 stipulates that the parliamentary threshold of 2.5% of the total valid votes nationally only applies to the determination of DPR seats and does not apply to Provincial DPRD or Regency/City DPRD. However, in the 2009 elections, political parties that did not gain seats in the DPR in the 2004 elections were supposed to gain seats in the DPR. This led to many political parties participating in the 2009 elections, consisting of 44 political parties, including 7 local Acehese parties, of which 28 parties did not meet the threshold and only 9 (nine) political parties achieved seats in the DPR RI.

The Election Law was again revised into Law No. 8/2012 which set a parliamentary threshold of 3.5% and applied nationally to all members of the DPR and DPRD. However, the regulation was later challenged by 14 political parties to the Constitutional Court. The Constitutional Court partially granted the political parties' petition for judicial review of Law Number 8/2012. Article 208 of Law No. 8/2012, along the phrase, Provincial DPRD and Regency/City DPRD is contrary to the 1945 Constitution of the Republic of Indonesia. The decision explains that the votes of political parties that do not meet the threshold of 3.5% of the

total valid votes across the country will be removed. If the threshold is not met across the country, those votes will be removed. In the end, the Constitutional Court stated that the 3.5% threshold only applies to the DPR and DPRD. In the 2014 elections, there were 15 political parties, including 3 local Acehnesse parties, but only two made it into parliament (Ramadhani, 2020).

Subsequently, for the 2019 elections, the Election Law was again amended to Law No. 7/2017, which raised the parliamentary threshold to 4% of the national valid vote applicable to all DPR members. As stated in Article 415 and Article 414 of Law 7/2017, parties that do not meet the threshold will not be counted in the vote count for DPR seats.

Table 2. Timeline of Changes to the General Election Law Related to the Parliamentary Threshold

Election Year	Laws	Number Of Numbers
1999	Article 39 Paragraph 1 Number 3 Year 1999	2% (Electoral Threshold)
2004	Article 142 and 143 Law Number 12 Year 2003	3% (Electoral Threshold)
2009	Article 202 paragraph 1 of Law Number 10 Year 2008	2,5%(Parliamentary Threshold)
2014	Article 208 of Law Number 8 Year 2012	3,5%(Parliamentary Threshold)
2019	Article 414 paragraph (1) Law Number 7 Year 2017	4%(Parliamentary Threshold)

Political Parties participating in the elections that do not meet the vote acquisition threshold as referred to in article 208, are not included in the calculation of the acquisition of seats for the DPR, provincial DPRD, and regency/city DPRD in each electoral district. In the Legislative Election Law, the DPR provides information on the emergence of the parliamentary threshold, namely:

"In fact, Article 208 of Law 8/12 is an effort to increase the institutional capacity of national political parties. This in no way emasculates the presence of local parties. The enactment of this national treshold is an effort by the DPR together with the Government in creating harmony and integration between the central and regional parliaments. "Because a political party is not easy to pass the PT number if it does not get popular support in the elections. It is not enough for a political party to pass the administrative requirements to participate in the election, but the requirement for recognition of popular support is the most important. This is evident in the requirement to pass the PT."

In the Legislative Election Law, the DPR provides an explanation for the emergence of the parliamentary threshold, namely:

".... The original intention of implementing the threshold was to achieve the efficiency and effectiveness of the parliamentary system. The discussion on this matter is a form of seriousness in creating a better electoral system and encouraging political parties to work better in the interests of the people so that they can gain more people's trust in elections. We hope that the people will not be confused by too many political parties as complained about today and encourage each political party participating in the election to consolidate each of its activities and programs and convey them to the people in the campaign."

The opinion of the DPR RI above shows that the initial purpose of setting a parliamentary threshold is to achieve the efficiency and effectiveness of the parliamentary system. From DPR RI's perspective, a parliamentary threshold is suitable to encourage political parties to act in the interests of the people. Therefore, the parliamentary threshold after the DPR

RI can be a solution to the chaos of many political parties. The parliamentary election threshold is actually a real form of public recognition of political parties participating in the election.

There is a stark difference between the positions of the government and the House of Representatives regarding the implementation of the *parliamentary threshold*. The government considers that the parliamentary threshold is needed to form national political parties that fight for and defend political interests at the center and regions. Meanwhile, the DPR RI considers that the parliamentary threshold is used to create political parties that act in the interests of the people to gain people's trust.

The Parliamentary Threshold has received challenges from both individuals and institutions. They believe that this parliamentary threshold has violated constitutional rights. This problem is evident in the judicial review of the parliamentary threshold provision by MKRI. With its decision, MKRI wanted to defend the constitutionality of the parliamentary threshold clause. The position of the Court considering the parliamentary threshold in MKRI Decision No. 3/PUU-VII/2009 applies *mutatis mutandis* to the legal aspects of MKRI Decision No. 52/PUU-X/2012, which reads:

"The Court states that the ET policy is not discriminatory because it applies to all political parties, is a policy of the legislator (*legal policy*) mandated by Article 22E paragraph (6) of the 1945 Constitution which is very open in nature, namely "Further provisions concerning general elections shall be regulated by law", so according to the Constitutional Court, both the ET and PT policies are equally constitutional (vide Decision Number 16/PUU-V/2007 dated October 23, 2007)."

Furthermore, MKRI argued that the parliamentary threshold is only mandatory when determining DPR seats and not when determining DPRD seats, as stated in its legal observations:

".... The Court is of the opinion that the policy is appropriate, because the position of the DPRD in the constitutional system is different from the DPR, which is national in nature and holds the power to form laws [Article 20 paragraph (1) of the 1945 Constitution], as well as being a counterweight to the President's power in the system of checks and balances, moreover the power of the DPRD as part of the regional government can still be controlled by the Government (center). In this regard, the Court also agrees with the arguments of the DPR, the Government, and the Government's expert that the PT provision, which only applies to the determination of DPR seats and does not apply to the determination of DPRD seats, is not a discriminatory policy, but rather a proportional policy."

MKRI further argued that parliamentary thresholds do not violate human rights, as stated in its legal observations:

"According to the Court, the PT policy in Article 202 paragraph (1) of Law 10/2008 in no way ignores the principles of human rights contained in Article 28D paragraph (1) and paragraph (3) of the 1945 Constitution, because every person, every citizen, and every political party participating in the election is treated equally and gets the same opportunity through democratic competition in the election. It is possible that some are lucky and some are unlucky in a competition called elections, but the opportunities and chances remain the same."

Then further in its legal considerations, MKRI explained that:

"The Court is of the opinion that the provisions of Article 202 paragraph (1) of Law 10/2008 do not contain discriminatory characteristics and elements, because in addition to applying objectively to all political parties participating in the elections and all candidates for DPR members from political parties participating in the elections, without exception, there are also no differentiating factors of race, religion, gender, social status, and others as referred to in Law Number 39 of 1999 concerning Human Rights and the International Covenant on Civil and Political Rights (ICCPR)."

In its legal reasoning, MKRI concluded that:

Thus, according to the Court, the provisions regarding the existence of PT as stipulated in Article 202 paragraph (1) of Law 10/2008 do not violate the Constitution because the provisions of the Law have provided opportunities for every citizen to form political parties but at the same time are rationally selected and limited through the provisions of PT to be able to have representatives in the DPR. Everywhere in the world, the constitution always authorizes the legislator to determine the limits in the law for the implementation of people's political rights.

By reviewing the legal considerations on the constitutionality of the parliamentary threshold presented by the Constitutional Court, the Court remains firmly convinced that the parliamentary election clause applied by the DPR is constitutional, because the provisions of the law a quo provide every citizen with the opportunity to establish a political party. However, at the same time, they are chosen rationally and limited by the PT regulation so that there is representation in the DPR and the power to determine the amount of PT is in the hands of the DPR as legislators.

The parliamentary threshold does not undermine the principle of human rights as in Article 28D paragraphs (1) and (3) of the 1945 Constitution of the Republic of Indonesia because every person, every citizen, and every party participating in the election is treated equally and has the same opportunity in a fair and democratic general election. According to the Constitutional Court's conclusion, the parliamentary threshold does not contain discriminatory characteristics and elements, because in addition to applying objectively to all political parties participating in the elections and all candidates for members of the DPR from political parties participating in the elections, without exception, there are also no differentiating factors of race, religion, gender, social status.

The Impact of the Implementation of the Parliamentary Threshold on Democratic Representation in the Perspective of Fiqh Siyasah Principles of Justice and Deliberation (Shura)

In the perspective of fiqh siyasah, the principles of **deliberation (shura)** and **justice** are very important. A Parliamentary Threshold that is too high can be considered unfair because it can prevent small parties that have votes from certain groups in society from gaining representation. Islam encourages inclusiveness and protection of the rights of minority groups. Therefore, if the Parliamentary Threshold is too high and disadvantages certain groups, then it may contradict the principles of justice in fiqh siyasah.

People's Right to be Elected and Vote

In Islam, the right to elect and be elected is a basic right that must be respected, as stated in various principles of shura (deliberation) and ijma' (agreement). The implementation of a very high Parliamentary Threshold may diminish the people's right to choose the party they believe in, as some small parties with a base of followers may not be able to pass and not get representation. This could be considered contrary to the basic principles of democracy in Islam, which prioritize justice for all citizens.

Demands for Fairness in the Electoral System

Islam emphasizes the importance of a fair and transparent electoral system. The application of a Parliamentary Threshold that is too high can cause injustice in elections because only large parties can compete, while many people's votes from small parties are ignored. From the perspective of fiqh siyasah, the electoral system must provide a fair opportunity for all parties to participate and obtain appropriate representation.

CONCLUSION

Impact analysis shows that parliamentary thresholds weaken the chances of new parties winning seats in parliament, reducing plurality in political representation. In the 2019 elections, for example, the increase in the threshold to 4% made it difficult for many small political parties to gain seats in the DPR, consolidating the dominance of the major parties. This creates a challenge to democratic principles that call for open and equal political competition. As a result, small parties face difficulties in conveying the aspirations of their constituents in parliament.

In addition, the threshold provision also has an impact on the function of political parties in providing and selecting candidates for national leadership. The presidential threshold system, which requires parties to have a minimum of 20% of DPR seats or 25% of the national vote to nominate a president and vice president, makes small parties unable to nominate candidates independently. This limits the public's choice in selecting potential leaders, reducing the opportunity to get to know and consider more alternative potential leaders. Parties that do not meet the threshold must form coalitions, which often reduces flexibility in political agenda setting and strategy.

In conclusion, the implementation of a parliamentary threshold in Indonesia is an attempt to strengthen the party system and ensure political stability, but at the cost of reducing political diversity. While MKRI supports the legality and constitutionality of this provision, its impact on new parties and the diversity of candidates offered in elections demonstrates the challenges that need to be overcome to realize a more inclusive democracy. Reforms and evaluations of the application of thresholds need to continue, so that the balance between political stability and representation of various groups in society is maintained.

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