

Hambatan Calon Presiden Perseorangan di Indonesia: Analisis Perbandingan Antara Indonesia dan Amerika Latin = The Barriers of Independent Presidential Candidates In Indonesia: Comparative Analysis between Indonesia And Latin America

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Abstrak

ABSTRAK

Tesis ini menganalisis hambatan calon presiden perseorangan di Indonesia. Alasan yang melatar belakangi ialah Mahkamah Konstitusi menolak *judicial review* terkait calon presiden perseorangan padahal sebelumnya mengabulkan *judicial review* calon kepala daerah perseorangan. Mahkamah Konstitusi menolak dengan pertimbangan kehendak awal (*original intent*), calon presiden perseorangan tidak dikehendaki oleh MPR. Dengan menggunakan pendekatan sejarah dan perbandingan hukum, telah berhasil ditemukan dua jenis hambatan, hambatan normatif dan hambatan empiris. Hambatan normatif calon presiden perseorangan (*independen*) ialah, *original intent* tidak menolak secara tegas calon perseorangan hanya diam tenggelam dengan isu lainnya. Sedangkan hambatan empiris, terdiri atas 3 bentuk: hambatan dukungan minimal, hambatan kampanye, dan hambatan pasca pemerintahan terbentuk. Hambatan yang paling dikhawatirkan dari keseluruhan ini ialah hambatan pasca pemerintahan terbentuk yang menciptakan *divided government*. Setelah melakukan perbandingan dengan 12 negara Amerika Latin, dapat disimpulkan hambatan *divided government* sebenarnya dapat dicegah dengan cara membangun koalisi kohesif.

ABSTRACT

This thesis analyses the barriers of independent presidential candidates in Indonesia. The reason behind this is that the Constitutional Court rejected *judicial review* related to independent presidential candidates even though previously it granted *judicial review* of independent candidates for regional heads. The Constitutional Court refused with consideration of the original intent, the independent presidential candidate was not wanted by the MPR. Using a historical and legal comparison approach, two types of obstacles; normative obstacles and empirical obstacles have been found. The normative obstacle of independent presidential candidates is that the original intent did not expressly reject independent candidates which it drowned out other issues. While empirical barriers consist of 3 forms: minimal support barriers, campaign barriers, and post-government barriers are formed. The most worrying obstacle of this whole is the post-government obstacle which creates *divided government*. After making comparisons with 12 Latin American countries, it can be concluded that the obstacles to *divided government* can actually be prevented by building a cohesive coalition.