

A Comparison of Presidential Threshold Systems in Presidential and Vice-Presidential Elections in Indonesia and Brazil

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ABSTRACT

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The purpose of this comparison is the reconstruction of the law. The requirements for future presidents and vice presidential candidates are listed in Article 6a, paragraph 2. However, the pros and cons of this rule are still often raised, as it reduces the individual's right to stand as president and vice president, thus requiring legislative amendments. This research uses a method of normative law research, where the approach used in this research is a legal approach and a comparative approach. The threshold in Brazil is different from Indonesia. According to J. Mark Payne, when discussing the threshold in the presidential election, what is meant is the condition of a presidential candidate to be elected president. The threshold for elected presidents in Brazil with 50% + 1 vote is laid down in Article 147. In Indonesia, such a limit is a condition for the nomination of a President and Vice-President to advance in the contest for the election of the President and Vice-Presidents. In contrast, the threshing limit for nomination for the President of the Republic of Indonesia is in Article 222, which stipulates that the pair of candidates must be proposed by the political party or association of political parties participating in the election and meet the requirement to obtain 20% (twenty percent) of the number of seats in the House of Representatives or 25% (Twenty-five percent) from the national valid votes in the previous election of members of the House.

Introduction

When talking about the system of government, Indonesia and Brazil have one thing in common: they embrace the presidential system of government.¹ In

¹ Matthew L. Layton et al., "Demographic Polarization and the Rise of the Far Right: Brazil's 2018 Presidential Election," *Research & Politics* 8, no. 1 (January 28, 2021): 205, <https://doi.org/10.1177/2053168021990204>.

this case, Indonesia and Brazil place the position of president as head of state and holder of government power. How these two countries determine the person who will occupy the position of president is achieved through general elections or what is further called elections.²

General elections are an essential instrument in a democracy.³ They attempt to influence the people persuasively (not forcefully) through rhetoric, public relations, mass communication, lobbying, and other activities. Elections are the most essential institution for fulfilling the three main principles of democracy in a republican form of government, namely the sovereignty of the people, the legitimacy of the government, and the regular change of government.⁴

One of the critical issues in implementing simultaneous elections is the presidential threshold or threshold system contestation requirements when nominating a president and vice president. This has become a special concern of the community, academics, political parties, and the government. The system is proposed to apply for a judicial review. The existence of a threshold rule is one of the efforts to strengthen the presidential system. This is regulated in Law Number 7 of 2017 concerning General Elections. On the other hand, the presidential threshold is seen as strengthening this system over time, which will make the government system in Indonesia experience irrelevant, irrational, and anomalous conditions. Through the presidential threshold, political parties can nominate a president and vice president with the provision that the political parties or a combination of them have 20% of the valid votes and 25% of the national valid votes in the previous year's legislative elections.⁵

There is a logical consequence of the change in the electoral regime. The result is the presence of rules regarding the flow of nominations for President and Vice President through the proposal of a political party or a coalition of political parties participating in the election before the implementation. The regulation is contained in Article 6A paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which gives political parties the privilege to nominate candidates for president and vice president. Changes have occurred where there are restrictions that become a reference for nomination, namely that a political party or a coalition of political parties must meet the figure of 20% in obtaining seats in the DPR or

² Sinta Devi Ambarwati, M. Roziq Saifulloh, and Stella M.S. Aritonang, "Rekonstruksi Sistem Presidential Threshold Dalam Sistem Pemilu Di Indonesia," *Jurnal Hukum Lex Generalis* 1, no. 5 (August 17, 2020): 80–95, <https://doi.org/10.56370/jhlg.v1i5.213>.

³ Agam Primadi, David Efendi, and Sahirin Sahirin, "The Role of Beginner Voters In Oversight Of Participative Election," *Journal of Political Issues* 1, no. 1 (July 24, 2019): 63–73, <https://doi.org/10.33019/jpi.v1i1.7>.

⁴ Bethany Albertson and Kimberly Guiler, "Conspiracy Theories, Election Rigging, and Support for Democratic Norms," *Research & Politics* 7, no. 3 (July 28, 2020): 205316802095985, <https://doi.org/10.1177/2053168020959859>.

⁵ Umarwan Sutopo, Achmad Hasan Basri, and Hilman Rosyidi, "Presidential Threshold in The 2024 Presidential Elections: Implications for The Benefits of Democracy In Indonesia," *Justicia Islamica* 21, no. 1 (June 25, 2024): 155–78, <https://doi.org/10.21154/justicia.v21i1.7577>.

25% of the national legal vote. This explanation means that not all political parties can nominate the President and Vice President as implied in Article 6A paragraph (2).⁶

The threshold requirement is considered to reduce the people's right to get the leader they want. Because with this threshold, on paper there are a maximum of 5 pairs of candidates. But in the field, it is unlikely that there will be 5 pairs. The maximum is 4 pairs of candidates. This is because the parties must form a coalition to ensure that the combined political parties will generate more than 20 per cent support, not just 20 per cent. Since the 20 percent threshold was enacted in 2009, there have only been a maximum of 3 pairs of candidates.⁷

The agreement on the presidential threshold norm refers to the basis of strengthening the presidential system in Indonesia. The amount of nomination limit explained previously is considered the initial support of political parties to the President and Vice President to form an adequate state government function. In the era of government decentralisation with the implementation of regional autonomy, public demand is increasing to participate. This is one of the characteristics of the development of democracy in Indonesia, where the exercise of state power through citizens is supervised to lead to equitable and democratic consensus.

The presidential threshold regulation paralyses the participation of independent or non-party presidential and Vice presidential candidates in the elections. Parties and coalitions of parties are the only ones allowed to provide proposals for presidential and Vice presidential pairs. Although the presidential threshold aims to provide proposals for legislative candidates, it has not been implemented optimally in Indonesia.⁸

Based on the above background, the researcher is interested in conducting a legal comparison with the country of Brazil,⁹ where the Presidential and Vice Presidential candidates in the Brazilian Constitution, specifically in Chapter V in Article 77, must pocket 50% of the votes + 1 as a condition for winning the Presidential election and knowing whether the threshold system affects the President when compiling his work program by what he wants to implement

⁶ Karmanis Karmanis, "ELECTRONIC-VOTING (E-VOTING) DAN PEMILIHAN UMUM (Studi Komparasi Di Indonesia, Brazil, India, Swiss Dan Australia)," *MIMBAR ADMINISTRASI FISIP UNTAG Semarang* 18, no. 2 (October 30, 2021): 11, <https://doi.org/10.56444/mia.v18i2.2526>.

⁷ Al Mas'udah Al Mas'udah, "The Presidential Threshold As An Open Legal Policy In General Elections In Indonesia," *Prophetic Law Review* 2, no. 1 (June 1, 2020): 176–85, <https://doi.org/10.20885/PLR.vol2.iss1.art3>.

⁸ Catur Widodo Haruni, "Presidential Threshold in the Presidential Election from the Perspective of Constitutional Democracy and State of Law," in *KnE Social Sciences*, 2022, 408–21, <https://doi.org/10.18502/kss.v7i15.12112>.

⁹ Pedro Floriano Ribeiro and Elodie Fabre, "Multilevel Party Organizations in a Fragmented Presidential System: The Case of Brazil," *Regional & Federal Studies* 30, no. 4 (August 7, 2020): 525–55, <https://doi.org/10.1080/13597566.2019.1591375>.

himself or compromise with the party having seats in the House of Representatives.¹⁰

The purpose of this comparison is legal reconstruction. The requirements regarding candidates for President and Vice President have been listed in Article 6a Paragraph 2. However, there are still often pros and cons related to this rule because it is considered to reduce the rights of individuals to run for President and Vice President, so legal reform is needed.¹¹

Therefore, researchers see a problem in this case related to comparing the presidential threshold system between Indonesia and Brazil. Thus, researchers are interested in raising the issue through a Research Proposal titled A Comparison of Presidential Threshold Systems in Presidential and Vice-Presidential Elections in Indonesia And Brazil. Researchers are interested in researching the problem with this title because they see some differences in the threshold system for the election of the president and vice president in Indonesia and Brazil.¹²

The originality of this research is based on several previous studies with relatively different characteristics in terms of themes and studies. The research will be conducted on comparing the constitution between Indonesia and a country with a similar constitutional system to Indonesia, which in this case is Brazil as a comparison country.

The similarity between the research of Naufal Rizky Albarkah and Muhammad Khoiruddin is that they explain the differences in constitutions between countries with government systems similar to Indonesia. However, the difference lies in the country used as a comparison. In this case, the author chose Brazil as a comparison country, while Naufal Rizky Albarkah's research chose Turkey as a comparison country. The similarity between the study conducted by Fahmi Idris and the author is that they both examine the presidential threshold in Indonesia. At the same time, the difference lies in the way of research. In this case, the author compares the presidential threshold system in the threshold for nominating presidential and vice-presidential candidates in Indonesia and Brazil.

Based on the description above, although previous research has been conducted on student motivation in completing proposals and peer social support, it is still different from the study conducted by the researchers. Thus, the research topic that researchers do is genuinely original.

¹⁰ Artur Zimerman and Flávio Pinheiro, "Appearances Can Be Deceptive: Political Polarization, Agrarian Policy, and Coalitional Presidentialism in Brazil," *Politics & Policy* 48, no. 2 (April 10, 2020): 339–71, <https://doi.org/10.1111/polp.12345>.

¹¹ Thomas Bustamante and Emilio Peluso Neder Meyer, "Legislative Resistance to Illiberalism in a System of Coalitional Presidentialism: Will It Work in Brazil?," *The Theory and Practice of Legislation* 9, no. 3 (September 2, 2021): 342–62, <https://doi.org/10.1080/20508840.2021.1942370>.

¹² Alessandro Freire and Mathieu Turgeon, "Random Votes under Compulsory Voting: Evidence from Brazil," *Electoral Studies* 66 (August 2020): 102168, <https://doi.org/10.1016/j.electstud.2020.102168>.

Methods

This research uses normative legal research methods, a scientific procedure for finding the truth based on legal, scientific logic through its normative side.¹³ The approach used in this research is a statutory approach and a comparative approach. This approach reviews all laws and regulations on the discussed legal issues (researched).¹⁴ This approach compares a country's legal system or laws with laws from one or more other countries regarding the same matter. A comparison is carried out to find out the similarities and differences between each. Indonesia and Brazil's presidential and vice-presidential election thresholds are compared in this case.

The types and sources of data used in this study are as follows:

- a. Primary data, namely data obtained by a researcher directly from the source without intermediary other parties (directly from the object), in this research are the 1945 Constitution of the Republic of Indonesia, Constituição da República Federativa do Brasil de 1988 (Constitution of the Federative Republic of Brazil in 1988), and Law Number 7 of 2017 concerning General Elections.
- b. Secondary data, namely data obtained by a researcher indirectly from the source (object of research), but through other sources, in this study in the form of library materials related to research problems and also have coherence with primary data.

The data collection in this study used the following techniques and instruments:

- a. Document research, namely data collection to obtain primary data, which in this study is to examine the 1945 Constitution of the Republic of Indonesia, Constituição da República Federativa do Brasil de 1988 (Constitution of the Federative Republic of Brazil in 1988), and Law Number 7 of 2017 concerning General Elections.
- b. Library research, namely data collection to obtain secondary data, which in this study is in the form of library materials such as books, dictionaries, journals, laws and regulations in the form of hard and soft copies.

The data that has been collected is then analyzed using qualitative data analysis techniques, namely analysis that focuses on showing meaning,

¹³ Pradeep M.D., "Legal Research- Descriptive Analysis on Doctrinal Methodology," *International Journal of Management, Technology, and Social Sciences* 4, no. 2 (2019): 95–103, <https://doi.org/10.47992/ijmts.2581.6012.0075>.

¹⁴ Amiruddin dan Zainal Asikin, *Pengantar Penelitian Hukum* (Jakarta: Rajawali Pers, 2018), 176, <https://www.rajagrafindo.co.id/>.

description, clarification, and placing data in their respective contexts, and describing them in words rather than in numbers to achieve predetermined research objectives.¹⁵

Discussion

Comparison of the Threshold System for Presidential and Vice Presidential Elections Based on the Constitutional Foundations and Laws of Indonesia and Brazil

In Indonesia, Articles 6, 6A, and 7 of the 1945 Constitution regulate the direct election of the president. The president and vice president are elected directly by the people through a pair organized by the General Election Commission (KPU).¹⁶ One form of the presidential system of government is the people's direct election of the president and vice president. In 2004, Susilo Bambang Yudhoyono and Jusuf Kalla became the first president and vice president in Indonesia to be directly elected by the people. Before 2004, the House of Representatives or parliament elected the President and Vice President.

Before the implementation of the general election, political parties and a combination of participating political parties submit a pair of candidates for President and Vice President of Indonesia.¹⁷ With the enactment of Law No. 7/2017 on General Elections, the regulation stated in Article 6A paragraph 2 of the 1945 Constitution of the Republic of Indonesia is expanded again. Article 222 states that a candidate pair must be proposed by a Political Party or a Joint Political Party that participates in the election and meets the requirements to obtain 20% (twenty percent) of the total number of DPR seats or 25% (twenty-five percent) of the national valid votes in the previous DPR election. In this case, Indonesia applies a presidential and vice-presidential nomination threshold of 20% of the seats in parliament or DPR RI.

Candidates for President and Vice President who receive more than fifty percent of the total votes in the general election with at least twenty percent of the votes in each province spread across more than half of the provinces in Indonesia, are inaugurated as President and Vice President. Suppose no pair of candidates for President and Vice President receives more than 50%. In that case, the two pairs of candidates who get the first and second highest number of votes

¹⁵ Victor Imanuel W. Nalle, "The Relevance of Socio-Legal Studies in Legal Science," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 27, no. 1 (February 15, 2015): 179, <https://doi.org/10.22146/jmh.15905>.

¹⁶ Eugenia Brandao Da Silva et al., "A Model of Election Supervision Based on Village Judicial Institutions; A Review of Legal Anthropology in Madura," *Trunjoyo Law Review* 6, no. 1 (February 28, 2024): 96–119, <https://doi.org/10.21107/tlr.v6i1.23230>.

¹⁷ Michael Buehler, Ronnie Nataatmadja, and Iqra Anugrah, "Limitations to Subnational Authoritarianism: Indonesian Local Government Head Elections in Comparative Perspective," *Regional & Federal Studies* 31, no. 3 (May 27, 2021): 381–404, <https://doi.org/10.1080/13597566.2021.1918388>.

in the general election directly elected by the people will enter the second round of elections. The presidential election system in Indonesia can be conducted in two rounds if no single candidate gets more than 50% of the votes in the first round of elections.

The president and vice-president hold office for five years and can be re-elected to the same office only once, meaning the president can only hold office for two terms. The first amendment to the 1945 Constitution limits this authority.¹⁸ Candidates for president and vice president of Indonesia must have at least a high school education, madrasah aliyah, vocational high school, madrasah aliyah kejuruan, or other equivalent school. They must also have been at least forty years old or held a general election position, including regional head elections. No candidate for president or vice president of Indonesia may join the banned organisation the Indonesian Communist Party, including its mass organisations, or be directly involved in the G.30.S/PKI.¹⁹

Whereas in the 1988 Constitution of the Federative Republic of Brazil specifically in Chapter V, which addresses the threshold for presidential candidacy as well as the dissolution, merger, consolidation, and establishment of political parties committed to human rights, political diversity, democratic governance, and national sovereignty.²⁰ Therefore, every Brazilian political party has the right to nominate a presidential candidate. Article 77, paragraph 2 of the Brazilian Constitution states "After being registered by a political party, the candidate who receives an absolute majority of the votes cast, excluding blank or void votes, shall be considered the President-elect." According to the explanation of article 77, paragraph 2 of the Brazilian Federal Constitution, the candidate who obtains half of the valid votes plus one (50% + 1) in the election held on the first Sunday of October is considered elected.²¹

If no candidate reaches that number, a second round will be held between the two candidates with the highest number of votes in the first round, which will be held on the last Sunday of October. However, the threshold in Brazil is different from Indonesia.²² According to J. Mark Payne, when discussing

¹⁸ Nurus Zaman, "Constitution in Legal Political Perspective," *Trunojoyo Law Review* 4, no. 1 (August 8, 2022): 45–68, <https://doi.org/10.21107/tlr.v4i1.16487>.

¹⁹ Wildhan Khalyubi and Aditya Perdana, "Electoral Manipulation Informationally on Hoax Production in 2019 Presidential and Vice Presidential Election in Indonesia," *Journal of Government and Political Issues* 1, no. 2 (November 20, 2021), <https://doi.org/10.53341/jgpi.v1i2.17>.

²⁰ Tom Gerald Daly, "Understanding Multi-Directional Democratic Decay: Lessons from the Rise of Bolsonaro in Brazil," *The Law & Ethics of Human Rights* 14, no. 2 (November 25, 2020): 199–226, <https://doi.org/10.1515/lehr-2020-2014>.

²¹ Pedro Floriano Ribeiro and André Borges, "The Populist Challenge: Multi-Level Electoral Coordination in Brazil's 2018 Elections," *Regional & Federal Studies* 30, no. 3 (May 26, 2020): 363–86, <https://doi.org/10.1080/13597566.2019.1694005>.

²² Muhammad Ali Farhan, "Application of Presidential Threshold In Indonesia And Comparison With Several Countries," *YURISDIKSI: Jurnal Wacana Hukum Dan Sains* 18, no. 1 (June 30, 2022): 56–67, <https://doi.org/10.55173/yurisdiksi.v18i1.124>.

thresholds in presidential elections, what is meant is the requirement for a presidential candidate to be elected president. The threshold for winning the presidential election in Brazil is 50% + 1 vote, which means "The President and Vice President of the Republic are elected in a direct vote, through universal and secret suffrage, by an absolute majority of valid votes, counting the votes of voters residing at home and abroad." This article states that the presidential candidate who obtains more than 50% of the valid votes in the first round will be directly elected. If no candidate reaches this threshold, the two candidates with the most votes will advance to the second round of elections, where the candidate with the most votes will be elected.²³

Judging from the substantive meaning of the presidential threshold in practice in several countries,²⁴ it can be emphasised that the presidential threshold is a requirement for a presidential candidate to be elected as president and not a requirement for nomination as President and Vice President.²⁵ In countries that adhere to the presidential system, what is meant by the Presidential Threshold is the imposition of a minimum threshold for presidential electability. In other words, the context of the implementation of the Presidential Threshold, if this term is to be used, is not to limit the candidacy of the President. Instead, it is to determine the minimum percentage of votes for the electability of presidential candidates. The following table compares the presidential election threshold systems that apply in Indonesia and Brazil:

Table 1. Comparison of Indonesia and Brazil's Presidential Election Threshold Systems

Comparison	Indonesia	Brazil
Government System	Presidential	Presidential
Threshold Concept	Limiting the Nomination of President and Vice President	Imposing a Minimum Threshold for Presidential Elections
Threshold System	Candidacy Requirements for President and Vice President	Victory Requirements for President and Vice President
Age Limit for Presidential and Vice Presidential Candidacy	At least 40 (forty) years old / has served as regional head	at least 35 (forty) years old

²³ Denny Indra Sukmawan and Syaugi Pratama, "Critical Review of the Constitutional Court's Decision on the Presidential Threshold," *Jurnal Konstitusi* 20, no. 4 (December 1, 2023): 556–75, <https://doi.org/10.31078/jk2041>.

²⁴ Arif Sugitanata, "Dynamics of Constitutional Court Decisions Regarding The Age Limits of Presidential and Vice Presidential Candidates," *Qaumiyyah: Jurnal Hukum Tata Negara* 4, no. 2 (December 31, 2023): 23–42, <https://doi.org/10.24239/qaumiyyah.v4i2.79>.

²⁵ Muhammad Syafei and Muhammad Rafi Darajati, "Design of General Election in Indonesia," *LAW REFORM* 16, no. 1 (March 27, 2020): 97–111, <https://doi.org/10.14710/lr.v16i1.30308>.

Threshold Value	20% of DPR seats or 25% of national valid votes	50% + 1 national valid vote
Threshold Objective	Strengthen the presidential system, improve government effectiveness	Ensure the winner of the election has the support of a majority of the people
Election System	Two rounds (for president)	Two rounds (for president)

Source: *Author's creation*

Pros and Cons of Presidential and Vice-Presidential Election Thresholds in Indonesia and Brazil

Threshold systems in presidential and vice-presidential elections are complex and controversial, with solid arguments on both sides.²⁶ In Indonesia and Brazil, thresholds significantly impact the electoral process and the final outcome. In Indonesia, the threshold of 20% of DPR seats or 25% of the national valid vote has been debated for many years. Proponents argue that this threshold strengthens the presidential system and increases government effectiveness. However, opponents argue that it limits people's choices and facilitates the practice of money politics.²⁷

In Brazil, the 50%+1 national valid vote threshold for the second round of presidential elections has advantages and disadvantages. Proponents argue that this threshold ensures that the election's winner has the support of a majority of the people and brings political stability. However, opponents argue that it lengthens the electoral process, limits the chances of independent candidates and increases the chances of political polarisation.

This study will explore the advantages and disadvantages of presidential and vice presidential election thresholds in Indonesia and Brazil.²⁸ We will compare these two systems and analyze their impact on the democratic process in both countries.²⁹ Below is a table of the advantages and disadvantages of the presidential and vice presidential threshold systems in Indonesia and Brazil:

²⁶ Anthin Lathifah et al., "The Construction of Religious Freedom in Indonesian Legislation: A Perspective of Maqāṣid Ḥifẓ Al-Dīn," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (June 27, 2022): 369, <https://doi.org/10.22373/sjhk.v6i1.10957>.

²⁷ Taufiq Yuli Purnama and Ramalina Ranaivo Mikea Manitra, "The Proposal for the Implementation of Elections in Indonesia: A Framework Based on the Presidential System," *Wacana Hukum* 29, no. 2 (October 31, 2023): 181–205, <https://doi.org/10.33061/wh.v29i2.9815>.

²⁸ Eduardo Javier Huerta Yero, Nilton Cesar Sacco, and Maria do Carmo Nicoletti, "Effect of the Municipal Human Development Index on the Results of the 2018 Brazilian Presidential Elections," *Expert Systems with Applications* 168 (April 2021): 114305, <https://doi.org/10.1016/j.eswa.2020.114305>.

²⁹ Amalinda Savirani, "Post-Election Politics in Indonesia: Between Economic Growth and Increased Islamic Conservatism," in *Southeast Asian Affairs 2020* (ISEAS Publishing, 2020), 137–54, <https://doi.org/10.1355/9789814881319-009>.

Table 2. Pros and Cons of Thresholds for Presidential and Vice Presidential Elections in Indonesia and Brazil

Country	Strength	Disadvantages
Indonesia	Strengthen the presidential system by ensuring the elected president has strong parliamentary support.	Limiting people's choices by making it difficult for independent candidates and small parties to run.
	Improve government effectiveness by making it easier for the president to implement his programs.	It facilitates the practice of money politics because large parties have more resources to buy votes.
Brazil	Ensure that the winner of the election has the support of the majority of the people, thus having a strong mandate.	Prolonging the election process due to two rounds
	Increase political stability by reducing the likelihood that the elected president will be impeached.	It increases the chances of political polarization as candidates who advance to the second round usually come from two opposing political parties.

Source: Author's creation

The purpose of this comparison is to reconstruct regulations related to the presidential threshold in Indonesia, which in article 222 of the general election law states that "Candidate pairs are proposed by political parties or a combination of political parties participating in the election that meet the requirements of obtaining at least 20% (twenty percent) of the total number of DPR seats or obtaining 25% (twenty-five percent) of the valid votes nationally in the previous DPR elections."³⁰ This article restricts the rights of Indonesian citizens to run for president and vice president.³¹ Where if it is calculated that parties that have 20% of the seats in the DPR can propose candidates for President and Vice President (one pair), then if 5 parties have 20% of the seats in the DPR, each presidential candidate who can nominate himself as President and Vice President is only a maximum of 5 pairs of candidates, and if they get 25% of the national valid votes, there are only a maximum of 4 candidates for President and Vice President who run in the contestation, which can limit the rights of citizens to run as President and Vice President Candidates.

³⁰ Purnama Ayu Rizky, "Pernikahan Politik Indonesia (Studi Kasus Pernikahan Adik Jokowi Dan Ketua Mahkamah Konstitusi)," *POLITICOS: Jurnal Politik Dan Pemerintahan*, 2, no. 2 (2022): 104–13, <https://www.ejournal.warmadewa.ac.id/index.php/politicos/article/view/5265/3841>.

³¹ Simon Butt and Fritz Siregar, "Multilayered Oversight: Electoral Administration in Indonesia," *Asian Journal of Comparative Law* 16, no. S1 (December 1, 2021): S121–35, <https://doi.org/10.1017/asjcl.2021.32>.

Many of the nation's children who have the potential to be able to run as Presidential and Vice Presidential Candidates and have the ability and capacity can have their rights closed in this article. In contrast to Brazil, in the 2018 elections, around 13 presidential and vice-presidential candidates were running in the presidential election contestation, which made many choices in choosing candidates for president and vice president. The purpose of this comparison is that the regulation of the presidential threshold in Brazil can be used as a reference, or we can adopt it in Brazilian regulations because in Brazilian regulations, the presidential threshold is not used in the nomination of the President and Vice President, but is used as a condition for the President's election victory.

Conclusion

The threshold for presidential elections in Brazil is different from that in Indonesia, according to J. Mark Payne. Regarding presidential elections in Brazil, the threshold with 50% plus 1 vote is regulated by Article 147. The threshold for the nomination of a President and Vice President in Indonesia is found in Article 222, which stipulates that the candidate pair must be proposed by a Political Party or Association of Political Parties participating in the election and meet the requirements to obtain 20% (twenty percent) of the total number of DPR seats or 25% (twenty-five percent) of the national valid vote in the previous DPR election. In contrast, in Indonesia, the threshold is a requirement for the nomination of a President and Vice President to be able to advance in the contestation of the Presidential and Vice Presidential elections. In this instance, Indonesia uses a 20% of the seats in the legislature, or DPR RI, as the requirement for presidential and Vice Presidential nominations.

Additionally, several benefits and drawbacks of Brazil's and Indonesia's presidential and vice Presidential election thresholds The 20% DPR seat threshold or 25% of the national valid vote has long been discussed in Indonesia. Supporters contend that raising the bar improves administration efficiency and fortifies the presidential system. Opponents counter that this barrier encourages the practice of money politics and restricts people's options. There are benefits and drawbacks to Brazil's 50% + 1 national valid vote threshold for the second round of presidential elections. The threshold, according to its supporters, guarantees that the victor of the election has the backing of the majority of voters and promotes political stability. Opponents counter that this barrier heightens the likelihood of political polarization, prolongs the electoral process, and restricts the options available to independent candidates. The contribution of this research is to compare the presidential threshold system between Indonesia and Brazil, to reconstruct regulations related to the presidential threshold in Indonesia. The comparison is intended so that the regulation of the presidential threshold in Brazil can be used as a reference, or we can adopt the Brazilian regulation.

References

- Albertson, Bethany, and Kimberly Guiler. "Conspiracy Theories, Election Rigging, and Support for Democratic Norms." *Research & Politics* 7, no. 3 (July 28, 2020): 205316802095985. <https://doi.org/10.1177/2053168020959859>.
- Amalinda Savirani. "Post-Election Politics in Indonesia: Between Economic Growth and Increased Islamic Conservatism." In *Southeast Asian Affairs 2020*, 137–54. ISEAS Publishing, 2020. <https://doi.org/10.1355/9789814881319-009>.
- Ambarwati, Sinta Devi, M. Roziq Saifulloh, and Stella M.S. Aritonang. "Rekonstruksi Sistem Presidential Threshold Dalam Sistem Pemilu Di Indonesia." *Jurnal Hukum Lex Generalis* 1, no. 5 (August 17, 2020): 80–95. <https://doi.org/10.56370/jhlg.v1i5.213>.
- Amiruddin dan Zainal Asikin. *Pengantar Penelitian Hukum*. Jakarta: Rajawali Pers, 2018. <https://www.rajagrafindo.co.id/>.
- Arif Sugitanata. "Dynamics of Constitutional Court Decisions Regarding The Age Limits of Presidential and Vice Presidential Candidates." *Qaumiyyah: Jurnal Hukum Tata Negara* 4, no. 2 (December 31, 2023): 23–42. <https://doi.org/10.24239/qaumiyyah.v4i2.79>.
- Buehler, Michael, Ronnie Nataatmadja, and Iqra Anugrah. "Limitations to Subnational Authoritarianism: Indonesian Local Government Head Elections in Comparative Perspective." *Regional & Federal Studies* 31, no. 3 (May 27, 2021): 381–404. <https://doi.org/10.1080/13597566.2021.1918388>.
- Bustamante, Thomas, and Emílio Peluso Neder Meyer. "Legislative Resistance to Illiberalism in a System of Coalitional Presidentialism: Will It Work in Brazil?" *The Theory and Practice of Legislation* 9, no. 3 (September 2, 2021): 342–62. <https://doi.org/10.1080/20508840.2021.1942370>.
- Butt, Simon, and Fritz Siregar. "Multilayered Oversight: Electoral Administration in Indonesia." *Asian Journal of Comparative Law* 16, no. S1 (December 1, 2021): S121–35. <https://doi.org/10.1017/asjcl.2021.32>.
- Daly, Tom Gerald. "Understanding Multi-Directional Democratic Decay: Lessons from the Rise of Bolsonaro in Brazil." *The Law & Ethics of Human Rights* 14, no. 2 (November 25, 2020): 199–226. <https://doi.org/10.1515/lehr-2020-2014>.
- Freire, Alessandro, and Mathieu Turgeon. "Random Votes under Compulsory Voting: Evidence from Brazil." *Electoral Studies* 66 (August 2020): 102168. <https://doi.org/10.1016/j.electstud.2020.102168>.
- Huerta Yero, Eduardo Javier, Nilton Cesar Sacco, and Maria do Carmo Nicoletti. "Effect of the Municipal Human Development Index on the Results of the 2018 Brazilian Presidential Elections." *Expert Systems with Applications* 168 (April 2021): 114305. <https://doi.org/10.1016/j.eswa.2020.114305>.
- Karmanis, Karmanis. "ELECTRONIC-VOTING (E-VOTING) DAN PEMILIHAN UMUM (Studi Komparasi Di Indonesia, Brazil, India, Swiss Dan Australia)." *MIMBAR ADMINISTRASI FISIP UNTAG Semarang* 18, no. 2 (October 30, 2021): 11. <https://doi.org/10.56444/mia.v18i2.2526>.
- Khalyubi, Wildhan, and Aditya Perdana. "Electoral Manipulation Informationally on Hoax Production in 2019 Presidential and Vice Presidential Election in Indonesia." *Journal of Government and Political Issues* 1, no. 2 (November 20, 2021). <https://doi.org/10.53341/jgpi.v1i2.17>.

- Lathifah, Anthin, Abu - Hapsin, Ahmad Rofiq, and M. Arief Hidayatullah. "The Construction of Religious Freedom in Indonesian Legislation: A Perspective of Maqāṣid Ḥifẓ Al-Dīn." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (June 27, 2022): 369. <https://doi.org/10.22373/sjhk.v6i1.10957>.
- Layton, Matthew L., Amy Erica Smith, Mason W. Moseley, and Mollie J. Cohen. "Demographic Polarization and the Rise of the Far Right: Brazil's 2018 Presidential Election." *Research & Politics* 8, no. 1 (January 28, 2021): 205. <https://doi.org/10.1177/2053168021990204>.
- M.D., Pradeep. "Legal Research- Descriptive Analysis on Doctrinal Methodology." *International Journal of Management, Technology, and Social Sciences* 4, no. 2 (2019): 95–103. <https://doi.org/10.47992/ijmts.2581.6012.0075>.
- Mas'udah, Al Mas'udah Al. "The Presidential Threshold As An Open Legal Policy In General Elections In Indonesia." *Prophetic Law Review* 2, no. 1 (June 1, 2020): 176–85. <https://doi.org/10.20885/PLR.vol2.iss1.art3>.
- Muhammad Ali Farhan. "Application of Presidential Threshold In Indonesia And Comparison With Several Countries." *YURISDIKSI: Jurnal Wacana Hukum Dan Sains* 18, no. 1 (June 30, 2022): 56–67. <https://doi.org/10.55173/yurisdiksi.v18i1.124>.
- Nalle, Victor Imanuel W. "The Relevance of Socio-Legal Studies in Legal Science." *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 27, no. 1 (February 15, 2015): 179. <https://doi.org/10.22146/jmh.15905>.
- Primadi, Agam, David Efendi, and Sahirin Sahirin. "The Role of Beginner Voters In Oversight Of Participative Election." *Journal of Political Issues* 1, no. 1 (July 24, 2019): 63–73. <https://doi.org/10.33019/jpi.v1i1.7>.
- Purnama, Taufiq Yuli, and Ramalina Ranaivo Mikea Manitra. "The Proposal for the Implementation of Elections in Indonesia: A Framework Based on the Presidential System." *Wacana Hukum* 29, no. 2 (October 31, 2023): 181–205. <https://doi.org/10.33061/wh.v29i2.9815>.
- Ribeiro, Pedro Floriano, and André Borges. "The Populist Challenge: Multi-Level Electoral Coordination in Brazil's 2018 Elections." *Regional & Federal Studies* 30, no. 3 (May 26, 2020): 363–86. <https://doi.org/10.1080/13597566.2019.1694005>.
- Ribeiro, Pedro Floriano, and Elodie Fabre. "Multilevel Party Organizations in a Fragmented Presidential System: The Case of Brazil." *Regional & Federal Studies* 30, no. 4 (August 7, 2020): 525–55. <https://doi.org/10.1080/13597566.2019.1591375>.
- Rizky, Purnama Ayu. "Pernikahan Politik Indonesia (Studi Kasus Pernikahan Adik Jokowi Dan Ketua Mahkamah Konstitusi)." *POLITICOS: Jurnal Politik Dan Pemerintahan*, 2, no. 2 (2022): 104–13. <https://www.ejournal.warmadewa.ac.id/index.php/politicos/article/view/5265/3841>.
- Silva, Eugenia Brandao Da, Mahrus Ali, Khabib Syaikh Rohman, and Mashud Mashud. "A Model of Election Supervision Based on Village Judicial Institutions; A Review of Legal Anthropology in Madura." *Trunojoyo Law Review* 6, no. 1 (February 28, 2024): 96–119. <https://doi.org/10.21107/tlr.v6i1.23230>.
- Sukmawan, Denny Indra, and Syaugi Pratama. "Critical Review of the Constitutional Court's Decision on the Presidential Threshold." *Jurnal Konstitusi* 20, no. 4 (December 1, 2023): 556–75. <https://doi.org/10.31078/jk2041>.
- Sutopo, Umarwan, Achmad Hasan Basri, and Hilman Rosyidi. "Presidential Threshold in The

- 2024 Presidential Elections: Implications for The Benefits of Democracy In Indonesia.” *Justicia Islamica* 21, no. 1 (June 25, 2024): 155–78. <https://doi.org/10.21154/justicia.v21i1.7577>.
- Syafei, Muhammad, and Muhammad Rafi Darajati. “Design of General Election in Indonesia.” *LAW REFORM* 16, no. 1 (March 27, 2020): 97–111. <https://doi.org/10.14710/lr.v16i1.30308>.
- Wido Haruni, Catur. “Presidential Threshold in the Presidential Election from the Perspective of Constitutional Democracy and State of Law.” In *KnE Social Sciences*, 408–21, 2022. <https://doi.org/10.18502/kss.v7i15.12112>.
- Zaman, Nurus. “Constitution in Legal Political Perspective.” *Trunojoyo Law Review* 4, no. 1 (August 8, 2022): 45–68. <https://doi.org/10.21107/tlr.v4i1.16487>.
- Zimmerman, Artur, and Flávio Pinheiro. “Appearances Can Be Deceptive: Political Polarization, Agrarian Policy, and Coalitional Presidentialism in Brazil.” *Politics & Policy* 48, no. 2 (April 10, 2020): 339–71. <https://doi.org/10.1111/polp.12345>.