



ISSN Print: 2541-5298
ISSN Online: 2541-6464

SRIWIJAYA Law Review

Editorial Office: Faculty of Law, Sriwijaya University
Jalan Srijaya Negara, Palembang, South Sumatra 30139, Indonesia.
Phone: +62711-580063 Fax: +62711-581179
E-mail: sriwijalayawreview@unsri.ac.id| sriwijalayawreview@gmail.com
Website: <http://journal.fh.unsri.ac.id/index.php/sriwijalayawreview>

Does the Reform of the Parliamentary and Presidential Threshold Strengthen the Presidential System in Indonesia?

Mahesa Rannie^a, Retno Saraswati^a, and Fifiana Wisnaeni^a

^a Faculty of Law, Universitas Diponegoro, Indonesia. Corresponding author Mahesa Rannie, e-mail: mahesarannie@students.undip.ac.id

Article	Abstract
<p>Keywords:</p> <p>Electoral Threshold; Politics; System.</p> <p>Vote Legal Presidential</p> <p>Article History Received: Sept 7, 2023; Reviewed: Jan 21, 2024; Accepted: Jan 30, 2024; Published: Jan 31, 2024.</p> <p>DOI: 10.28946/slrev.Vol8.Iss 1.3157.pp133-151</p>	<p>The attempt to purify Indonesia's multiparty presidential system was only reflected after the Third Amendment to the 1945 Constitution. However, it took work to implement it. In practice. Various measures have been taken, including party alliances and introducing voting barriers in parliamentary elections. Therefore, analysing the relationship between electoral thresholds and their ideal proportions in the form of legal-political reforms to strengthen the Indonesian presidential system is interesting. This is in line with the purpose of this study, which is to uncover and analyse the legal politics of electoral thresholds in an attempt to strengthen the presidential system of government in Indonesia. The approach adopted in this study is a theoretical approach with legal, conceptual, comparative and historical approaches. This study concludes that the legitimate political renewal of the electoral vote threshold is not closely related to efforts to strengthen Indonesia's system of multiparty presidential government. The ideal way to reform the legal, political threshold for electoral votes would be to set the parliamentary threshold at 2.5%, but at the same time tighten controls over the parties participating in the election, and the 2.5% threshold serves as President to maintain a balance between the parliamentary and presidential thresholds. In addition, it is also important to strengthen consensus (consensus democracy) among coalition political parties. There is still a desire to abolish the presidential threshold through the People's Representative Council (<i>DPR</i>) instead of the Constitutional Court (<i>MK</i>).</p>

©2024; This is an Open Access Research distributed under the term of the Creative Commons Attribution License (<https://creativecommons.org/licenses/by/4.0>), which permits unrestricted use, distribution, and reproduction in any medium, provided the original works are properly cited.

INTRODUCTION

The reform movement in 1998 brought important changes to Indonesia's constitutional system.¹ These changes are due to efforts to strengthen Indonesia's presidential government system after the amendment to the 1945 Constitution of the Republic of Indonesia became the agreement of

¹ Riris Ardhanariswari et al., "Upholding Judicial Independence through the Practice of Judicial Activism in Constitutional Review: A Study by Constitutional Judges," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 2 (2023): 183.

the Working Committee of the People's Consultative Assembly of the Republic of Indonesia (MPR) in 1999. However, this effort could not be fully carried out at that time because, initially, changes to the 1945 Constitution of the Republic of Indonesia gave greater powers to the legislature, so heavy legislation appeared. This is understandable because during the New Order government, before the amendment to the Constitution of the Republic of Indonesia in 1945, the executive had enormous power; even the legislative and judicial powers were controlled by the President as an executive (heavy executive). During the New Order government, only a few laws were enacted on the initiative of members of the House of Representatives of the Republic of Indonesia because it was in compliance with Article 5(1) of the Indonesian Constitution. 1945 Republic. Before the amendment, the President of Indonesia had the power to enact laws with the consent of the Democratic Republic. Of course, this type of government was not a democratic government based on the amendment to the 1945 Constitution of the Republic of Indonesia that the 1998 reform movement wanted.²

Considering various articles, the first and second amendments to the 1945 Constitution of the Republic of Indonesia during the period 1999-2000 tended to grant very broad powers to the legislature (DPR) outside its functions, i.e. the functions of legislation, budget and supervision. The constitutional strengthening of Indonesia's presidential system of government only occurred during the third amendment to the 1945 Constitution in 2001 after the administration of President Abdurrahman Wahid, which was marked by the reorganisation of the DPR's existence as a state institution that has a legislative function, direct election of the President and/or vice president, the MPR no longer elects them, the President could not be easily impeached or removed during his period of leadership because some separate requirements and mechanisms had been regulated in article 7A of the 1945 Constitution .of the Republic of Indonesia. Apart from that, Article 7C of the amendment to the 1945 Constitution of the Republic of Indonesia states that the President cannot dissolve the DPR.

The issue of fortifying Indonesia's presidential government system has not been resolved despite the third amendment to the Republic of Indonesia's 1945 Constitution; rather, it has become more apparent under President Soesilo Bambang Yudhoyono's administration, as he was elected from a political party that was a minority within the DPR (Democratic Party). This phenomenon, in fact, supports the claim made by Scott Mainwaring. Mainwaring claims that in nations with cooperative multiparty presidential systems, like Indonesia, which established a multiparty system at the outset of independence in 1945 with Vice Presidential Decree No. X November 1949, a significant step toward the multiparty system's implementation in Indonesia,³ there was frequent impasse between the legislature (the legislature) and the President (the executive).⁴ This can happen if the elected President comes from a small political party and the parliament is populated by the majority party that wins the general election, a

² Hariyanto et al., "The Communal Democracy of Yogyakarta Special Region's Government on the Islamic Law Eclecticism Perspective," *Al Ihkam: Jurnal Hukum Dan Pranata Sosial* 18, no. 1 (2023): 216.

³ Partono, "Sistem multipartai, Presidensial Dan Persoalan Efektivitas Pemerintah," *Legislasi Indonesia* 5, no. 1 (2008): 16.

⁴ Lili Romli, *Sistem Presidensial Indonesia : Dinamika, Problematik, Dan Penguatan Pelembagaan* (Malang: Setara Press, 2019).

combination that will give rise to a minority president and a divided government,⁵ because in a presidential system of government, the Presidential and/or vice-presidential elections and legislative elections are held separately, and both tend to compete because they both feel they are gaining legitimacy from the people, so political parties or majority coalitions in parliament will not necessarily support policies adopted by the President, thus allowing deadlocks to arise. In a presidential system of government, there is effectively a separation between the executive and the legislative, and the government does not need legislative support.⁶

Based on the consideration of the aforementioned experience, in the 2009 parliamentary elections, vote thresholds were set for political parties so that their cadres could fill legislative seats, which were also included in the calculation of seat allocation.⁷ This is termed the parliamentary threshold, which is a form of legal politics in the form of open legal policies, namely the actions of lawmakers in determining subjects, objects, actions, events, and/or consequences to be regulated in laws and regulations.⁸ This policy was taken to limit political parties in the *DPR*. Through Article 202 paragraph (1) of the Act Number 10 of 2008 concerning the General Election of Members of the *DPR*, *DPD* and *DPRD*, a parliamentary threshold is set for membership of the *DPR* of at least 2.5% of the total valid votes nationally. This provision for a parliamentary threshold of 2.5% does reduce the number of political parties in the *DPR*, but this does not necessarily guarantee the stability of Indonesia's presidential government system.

Afterwards, the provision for the parliamentary threshold was increased to 3.5% during the 2014 legislative elections as stated in Article 208 of the Act Number 8 of 2012. The increase in the percentage of this parliamentary threshold did not significantly reduce the number of political parties in the *DPR*. Along with this parliamentary threshold provision, the threshold for the votes acquired by political parties or coalitions of political parties that can nominate President and/or vice president (presidential threshold) was still enforced in the 2014 presidential and/or vice-presidential election. Previously, during the 2004 and 2009 presidential and/or vice-presidential elections, a provision for the presidential threshold had also been applied. In the 2004 election, the percentage of the presidential threshold was 15%, as stated in Article 5 paragraph (4) of the Act Number 23 of 2003 concerning the General Election of the President and Vice President. In the 2009 election, this increased to 20%. The 20% presidential threshold applies in the 2014 presidential and vice-presidential elections.

In the 2009 election, this increased to 20%. The 20% presidential threshold continues to apply in the 2014 presidential and vice-presidential elections. Through the Decision of the Constitutional Court Number 14/PUU-XI/2013, the Constitutional Court decided that the election would be held simultaneously. The reason for holding these simultaneous elections

⁵ Septi Nur Wijayanti and Kelik Iswandi, "Sinergitas Kabinet Presidensiil Multipartai Pada Masa Pandemi Covid-19 Di Indonesia," *Jurnal Konstitusi* 18, no. 2 (November 2021): 445, <https://doi.org/10.31078/jk1828>.

⁶ Jose Antonio Cheibub, *Presidentialism, Parliamentarism, and Democracy* (Cambridge United Kingdom: Cambridge University Press, 2007).

⁷ Saldi Isra and Khairul Fahmi, *Pemilihan Umum Demokratis: Prinsip-Prinsip Dalam Konstitusi Indonesia*, (Jakarta: RajaGrafindo Persada, 2019).

⁸ Iwan Satriawan and Tanto Lailam, "Open Legal Policy Dalam Putusan Mahkamah Konstitusi Dan Pembentukan Undang-Undang," *Jurnal Konstitusi* 16, no. 3 (October 2019): 561–62, <https://doi.org/10.31078/jk1636>.

was to encourage the strengthening of Indonesia's multiparty presidential government system. The simultaneous general elections in a presidential government system were expected to produce integrated executive and legislative branches. If the executive and legislative elections were held on the same day, voters tend to be consistent with their choices.⁹ The voters would choose the same political party as the party of their preferred presidential candidate. The simultaneous elections were held for the first time in the history of Indonesia. The legal framework for the election was also different compared to previous elections, which were separated into three acts. The legal basis for holding simultaneous elections was regulated as one in Act Number 7 of 2017 concerning Simultaneous General Elections. This law still contained the provisions regarding the threshold.¹⁰

In the implementation of the 2019 elections, the provisions for the parliamentary and presidential thresholds were still in effect. Article 414 of Act Number 7 of 2017 concerning Simultaneous General Elections stated that political parties participating in the elections must meet the threshold for obtaining at least 4% of the total valid votes nationally if they wish to obtain seats in the *DPR*. Likewise, the provisions regarding the presidential threshold contained in Article 222 of Act Number 7 of 2017 stated that presidential and/or vice-presidential candidates who could be put forward as candidates during the election were those proposed by political parties or a coalition of political parties participating in the election which meet the requirements for obtaining at least 20% of the seats in the *DPR* or obtaining 25% of the valid national votes in the previous election for members of the *DPR*.

Meanwhile, the parliamentary and presidential threshold are considered the most effective way to simplify political parties in Indonesia (*DPR*), so it is expected to strengthen Indonesia's presidential government system. However, some experts in Constitutional Law and Political Science state that the percentage of the parliamentary threshold based on the previous act of election and the Simultaneous Election, Act Number 7 of 2017, is still too large and is considered not to reflect justice and betray the principle of people's sovereignty as referred to in Article 1 paragraph (2) of The 1945 Constitution of the Republic of Indonesia, because with these percentages there will be several million valid votes nationally that will be wasted, and this is considered to betray the principle of people's sovereignty as referred to in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. There is no standard formula regarding the threshold for national elections, be it the parliamentary or the presidential threshold. The legislators determine the size of the threshold following the socio-political conditions of each country and in line with the specific goals to be achieved by the act.¹¹

Not to mention the issue of the presidential threshold, which is considered unconstitutional by some experts and observers of constitutional law, including Jimly Asshidiqie and Yusril Ihza Mahendra, because it is considered contrary to the provisions of Article 6A paragraph (2) of the 1945 Constitution of the Republic of Indonesia which explicitly states the pair of candidates for President and Vice President proposed by a political party or coalition of

⁹ Mark P. Jones, *Electoral Laws and The Survival of Presidential Democracies* (Notre Dame: University of Notre Dame Press, 1995).

¹⁰ Topo Santoso and Ida Budhiati, *Pemilu Di Indonesia : Kelembagaan, Pelaksanaan, Dan Pengawasan* (Jakarta: Sinar Grafika, 2019).

¹¹ Eka N.A.M Sihombing, *Politik Hukum* (Medan: Enam Media, 2020).

political parties participating in the election prior to the election, there is no provision regarding the presidential threshold in that article. However, some consider that the presidential threshold provision is an interpretation of the content of Article 6A paragraph (5) of the 1945 Constitution of the Republic of Indonesia.

The problem of setting the percentage of the electoral vote threshold (parliamentary and presidential threshold) is interesting to discuss and analyse in depth because it is still being debated. Based on the description, this research is dealing with the correlation of legal and political reform regarding the threshold both in parliamentary and presidential one. In addition, this research is also purposing the ideal provisions for the reform, especially the electoral thresholds to strengthen Indonesia's presidential government system.

RESEARCH METHODS

The problems of this study are analysed by using the doctrinal method, which, according to Soetandyo Wignjosoebroto, are studies on the law which are conceptualised and developed based on the doctrine conceptualised/developed by the drafter and/or the developer.¹² The approaches used are statutory, conceptual, comparative, and historical approaches to the problem of the electoral vote threshold (parliamentary and presidential threshold), which are discussed and analysed in an article titled "Does the Reform of the Parliamentary and Presidential Threshold Strengthen the Presidential System in Indonesia?". A paradigm is an "umbrella" philosophical system that includes certain ontologies, epistemologies, and methodologies. Each consists of a series of "core beliefs" or worldviews that cannot simply be interchanged with "core beliefs" or worldviews of other paradigms' ontology, epistemology, and methodologies.¹³ Seen from the ontology or nature of science, the post-positivism paradigm sees reality as critical realism, external realism that is objective and real and can be understood but not perfect due to the limitation of human intellectual mechanisms. This reality is critically tested to understand it as faithfully as possible.¹⁴

ANALYSIS AND DISCUSSION

The Correlation of Legal Politics of Voting Threshold in the Implementation of General Elections and the Efforts to Strengthen the Indonesian Presidential Government System

Many experts in various literary sources have put forward the definition of legal politics. Mahfud MD defines legal politics as a legal policy or official line (policy) regarding laws that will be enforced, either by making new laws or by replacing old ones, to achieve state goals.¹⁵ Legal politics is the resultant or the product of a political agreement adapted to the political, economic and social situation when it was made.¹⁶ Thus, political, social and economic

¹² Soetandyo Wignjosoebroto, *Hukum : Paradigma, Metode, Dan Dinamika Masalahnya* (Jakarta: Lembaga Studi dan Advokasi Masyarakat (ELSAM) dan Perkumpulan Untuk Pembaharuan Hukum Berbasis Masyarakat dan Ekologi (HUMA), 2002).

¹³ Erlyn Indarti, "Diskresi Dan Paradigma : Sebuah Telaah Filsafat Hukum," in *Pidato Pengukuhan Jabatan Guru Besar Pada Fakultas Hukum Universitas Diponegoro* (Semarang, 2010), 4.

¹⁴ Erlyn Indarti, "Kuliah Ke VII Filsafat Ilmu : Suatu Kajian Paradigmatik," in *Program Doktor Hukum Fakultas Hukum Universitas Diponegoro* (Semarang, 2015), 2.

¹⁵ Mahfud MD, *Politik Hukum Di Indonesia* (Depok: PT RajaGrafindo Persada, 2020).

¹⁶ K.C. Wheare, *The Modern Constitution 3 Rd Impression* (London-New York-Toronto: Oxford University Press, 1975).

configurations are very influential and determine legal policy in the form of laws and regulations.

The definition put forward by Mahfud MD is in line with what was stated by Sunaryati Hartono that "law as a tool" so that practically legal politics is also a tool or means and steps that the government can use to create a national legal system in order to achieve the ideals of the nation and the goal of the state, as stated in the preamble to the 1945 Constitution of the Republic of Indonesia, namely the creation of social justice for all Indonesian people. This statement also aligns with the concept of legal prismatic put forward by Mahfud MD, for example, in the state based on *rechtsstaat* law and the rule of law. Immanuel Kant and F.J. Stahl first put forward the concept of a *rechtsstaat* rule of law state, which is characterised by the existence of a government based on law, the division of powers, the existence of administrative justice, and the recognition of human rights. Meanwhile, the concept of a rule of law state is characterised by the existence of the rule of law, the existence of equal standing before the law, and the recognition of human rights. The advantages of the two concepts of the rule of law are combined (the middle way), meaning that the concept of *rechtsstaat*, which requires clarity of rules, can be combined with the justice of a judge in deciding (the rule of law). That is, the law is seen partially and comprehensively (progressive law).¹⁷ Legal certainty is important for upholding justice, but the judge can decide if the law cannot provide a sense of justice.¹⁸

One form of implementation of legal politics is the existence of legal products in the form of statutory regulations, including the election law. Since the reform era after the end of the government under the leadership of President Soeharto, legal products in the form of election laws have often changed, especially the substance of the law that regulates the percentage of the vote threshold, which is often termed the electoral, parliamentary, and presidential threshold. Setting the percentage of the electoral vote threshold is closely related to efforts to strengthen Indonesia's presidential government system, which has continued to be pursued until now.

It cannot be denied that the problem of strengthening Indonesia's presidential government system is directly related to the percentage of the vote threshold for political parties on election results and the nominations for President and/or vice president. This is a relationship that is difficult to avoid in the practice of Indonesia's unique presidential government system because it is integrated with multiparty. This is not the norm. In the United States of America, where the presidential system of government was born, according to the opinions of CF Strong, Alan R. Ball, and B. Guy Peters, the United States is "the outstanding example of the presidential form of government", while according to Jimly Asshiddiqie, the United States is an ideal example of a presidential system of government in the world,¹⁹ multiparty presidentialism has never been practised, even though the United States is a multiparty country.

¹⁷ Shohibul Umam, "Mahfud MD Jelaskan Gagasan Membangun Hukum Di ISNU," LEMBAGA NEGARA PENGAWAL KONSTITUSI, 2012.

¹⁸ Umam.

¹⁹ Saldi I Sra, *Sistem Pemerintahan Indonesia: Pergulatan Ketatanegaraan Menuju Sistem Pemerintahan Presidensial* (Depok: PT RajaGrafindo Persada, 2020).

The United States of America is a country that practices a district election system. The district or majority-plurality electoral system is the oldest and is based on a geographic unit called a district. Each district has one representative in the parliament. In this system, only the candidate with the most votes in a district can become a member of the parliament. The votes given to other candidates in the district are considered lost and are not taken into account again, even if the difference between the votes is very small.²⁰ This district election system is less representative because a political party whose candidate loses in a district will lose the votes that have supported it. Thus, the district election system has naturally filtered out the United States multiparty because the eliminated political parties integrated so that their members continued to exist so. In the implementation of democracy, only two political parties (dual parties) show their existence, namely the Democratic Party and the Republican Party. These two political parties have taken turns winning the Presidential election in the United States. With only two political parties in the United States, fragmentation or the tendency to form new political parties can be avoided. This automatically makes the presidential system of government there more effective and stable because the political party that wins the election will get the votes of the majority of voters and will be able to control the parliament in the future.

The history of the presidency of the United States of America is very stable because there has never been a change of President during his term of office, even through dismissal. In the history of the United States of America, there have been nine presidential changes in more than two centuries (1789-2014). Eight times because of death (killed four times and four times because of illness), while the resignation only happened once, namely Richard Nixon (the 37th President of the United States, held office from 1969 to 1974).²¹ None of the presidents of the United States of America have succeeded in being dismissed, although there have been trials of Andrew Johnson (1868) and William Jefferson Clinton (1998).²² In a stable presidential government system such as in the United States of America, when the executive makes policies, there will not be much opposition from the legislature, as is usually the case in a multiparty presidential government system. The contradictions often occur in the relationship between the executive and the legislature because both feel they are getting legitimacy from the people in their elections, so they are competing.²³ With only two political parties, this conflict can be minimised because, in fact, a presidential system of government is more suitable to be combined with two parties. When combined with multiparty, the presidential system of government tends to be difficult to run because it can cause a threat of systemic instability.²⁴

The practice of a presidential system of government in the United States of America has become an important foundation and has been imitated by many countries in the world. However, not all of the characteristics of the presidential government system in the United

²⁰ Fajlurrahman Jurdi, *Pengantar Hukum Pemilihan Umum* (Jakarta: Prenada Media Group, 2018).

²¹ Fitra Arsil, *Teori Sistem Pemerintahan: Pergeseran Konsep Dan Saling Kontribusi Antar Sistem Pemerintahan Di Berbagai Negara*, ed. PT RajaGrafindo Persada (Depok, 2017).

²² Arsil.

²³ Scott Mainwaring and Matthew Shugart, "Working Paper Juan Linz, Presidential, and Democracy: A Critical Appraisal," 1993.

²⁴ R. William Liddle and Saiful Mujani, "Indonesia in 2005: A New Multiparty Presidential Democracy," *Asian Survey* 46, no. 1 (February 2006): 132, <https://doi.org/10.1525/as.2006.46.1.132>.

States of America are found in the countries that also practice a presidential system of government. The countries in the Latin American region, such as Brazil, Argentina, Mexico, Peru, Venezuela, Costa Rica, Cuba, have a presidential government system that is different from that of the United States of America. This includes Indonesia, whose presidential system of government is different from that of the United States. As previously stated, Indonesia is a country with a multiparty presidential system of government that is similar to many Latin American countries. Applying a presidential government system in a multiparty context may be a feature of the Indonesian political system, which is contextualised with the socio-cultural conditions of the society.²⁵

In fact, many efforts have been made to filter or simplify the number of political parties in Indonesia, including by tightening the establishment of political parties and imposing a threshold for electoral votes (threshold). The euphoria of establishing a new political party at the beginning of the reformation period in 1998 was unavoidable. Restrictions on the establishment of political parties and social organisations during the New Order era caused this euphoria to arise, so it was unsurprising that dozens of new political parties appeared ahead of the 1999 elections. In addition, the plurality of Indonesian society in terms of culture, ethnicity, religion, and race is also an important factor in the emergence of many new political parties in Indonesia. With this plurality, a forum is needed to accommodate aspirations, and that can only be done by establishing a new political party or social organisation.

The above is a complicated problem. At the beginning of the reform period, the MPR, through its Working Committee, agreed to purify Indonesia's presidential government system. Nevertheless, the problem is that the presidential government system is difficult to combine with multiparty. Moreover, Indonesia must practice the district election system to filter the number of existing political parties. As a result, the number of political parties in Indonesia is still large. The characteristics of Indonesian society, which are very diverse and difficult to unify, have a big contribution, making it difficult to form simple multiparty and two-party parties. Various efforts have been made in this matter. Among them is by enforcing the electoral threshold legal policy contained in Article 3 of Act Number 2 of 1999 and Article 9 paragraph (1) of Act Number 12 of 2003 concerning the General Election of Members of the People's Representative Council, Regional Representative Council, and Regional Representative Council. Regional People's Representative Council during the 2004 elections. However, this policy could have produced the expected results. The number of political parties that placed their representatives in the *DPR* as a result of the 2004 election was still large when compared to the 1999 election, so it is not surprising that the President who was elected in the election at that time received a lot of opposition from members of the *DPR* regarding the policies he issued. The difficulty of the relationship between the executive and the legislature in a multiparty presidential system of government, as stated by Scott Mainwaring, was evident in the first period of President Soesilo Bambang Yudhoyono's leadership in 2004-2009. During this period, President Soesilo Bambang Yudhoyono was a minority president.²⁶

²⁵ Hanta Yudha, *Presidensialisme Setengah Hati : Dari Dilema Ke Kompromi*, ed. PT Gramedia Pustaka Utama (Jakarta, 2010).

²⁶ Steffen Ganghof, "A New Political System Model: Semi-Parliamentary Government," *European Journal Of Political Research* 57, No. 2 (May 2018): 269, <https://doi.org/10.1111/1475-6765.12224>.

The electoral threshold policy that was implemented in the 2004 election did not produce the expected results, so during the 2008 election, an open law policy was implemented in the form of a parliamentary threshold accompanied by a tightening of political parties that can participate in elections through verification by the Ministry of Law and Human Rights (Kemenkumham). That means there is indeed a problem with the simplification of the multiparty system in Indonesia so that it is effective, a parliamentary threshold is applied so that it can implement a presidential system in governance.²⁷

With the enactment of a parliamentary threshold of 2.5% during the 2008 elections, the number of political parties that can place their representatives in the DPR has decreased considerably. Nine political parties passed the parliamentary threshold at that time, namely the Indonesian Democratic Party of Struggle (PDIP), the Group of Work Party (Golkar), the United Development Party (PPP), the National Mandate Party (PAN), the Prosperous Justice Party (PKS), the National Awakening (PKB), Democratic Party, Great Indonesia Movement Party (Gerindra), and People's Conscience Party (Hanura). The number of political parties remained constant during the next elections in 2014, even though the parliamentary threshold was raised to 3.5%. According to the Association for Elections and Democracy (Perludem), in practice, the determination of parliamentary threshold figures in election law has never been based on a calculation basis that is transparent, open, and by the principle of proportional elections.²⁸ The size of the threshold for representation (parliamentary threshold) varies in many countries, including Indonesia. They are starting from the lowest rate of 2 (two) per cent to 10 (ten) per cent. However, transitional democracies, especially those that are moving from situations and symptoms of deep conflict, usually require more engagement between all parties. Thus, a low voting threshold is needed for political parties participating in elections to be able to voice their aspirations. Meanwhile, established democracies usually prefer a higher voting threshold.

After the first period of President Soesilo Bambang Yudhoyono's government in 2004-2009, to avoid deadlock and conflict between the executive and the legislature as had happened, a coalition was formed in the United Indonesia cabinet in the second period of President Soesilo Bambang Yudhoyono's government in 2009-2014 by several political parties along with the Democratic Party. However, this coalition is temporary, as it should be in a parliamentary system of government. This means that political parties that are coalition members can easily leave if they are not in line with the government's political parties. Coalitions are actually a tradition in parliamentary systems of government, not presidential ones. Coalitions in a parliamentary government system are permanent, built before the prime minister is elected and then continued when a new government is formed. This coalition concept is then practised in a multiparty presidential government system because it is needed for the government to run effectively and stably. The coalition of political parties in a multiparty presidential government system is an emergency step that must be taken and is

²⁷ Titon Kurnia, "Presidential Candidacy Threshold and Presidentialism Affirmation in Indonesia," *Padjadjaran Jurnal Ilmu Hukum (Journal of Law)* 07, no. 03 (January 2021): 362, <https://doi.org/10.22304/pjih.v7n3.a4>.

²⁸ "Perludem Uji Materi Ketentuan Ambang Batas Parlemen (Parliamentary Threshold)," <https://perludem.org/>, 2020.

impossible to avoid,²⁹ even though this is actually a complicated matter, as stated by Scott Mainwaring, "the combination of presidentialism and multipartyism is complicated by the difficulties of interparty coalition-building in presidential democracies".³⁰

In a presidential government system, coalitions can be distinguished in terms of quality and quantity. In terms of quality, there are three types of coalitions, namely:³¹ undersized coalitions, oversized coalitions, and minimal winning coalitions. Small coalitions occur if the coalition parties do not control a simple majority of seats in parliament; on the contrary, large coalitions control an absolute majority of seats in parliament. Limited pass coalitions occur if the coalition controls seats in parliament within the range of a simple majority and an absolute majority. In quantity, the coalition is judged by its solidity. There are three types of coalitions in quantity, namely:³² Ideological coalitions (consensus coalitions), strategic coalitions (conglomerate coalitions), and pragmatic coalitions (exclusive coalitions). Ideological coalitions occur because of the similarity of ideology, vision and mission. Therefore, this coalition is the strongest in solidity. The strategic coalition is more moderate in solidity because it occurs solely for the election-winning strategy. The pragmatic coalition needs to be stronger in solidity. Coalitions of this type occur only based on issues. The coalition can be very solid on certain issues that benefit each political party and vice versa.

In addition to establishing coalitions, the efforts to simplify political parties in Indonesia's presidential system of government continue to be pursued. In the 2014 legislative elections, the parliamentary threshold was increased from 2.5% to 3.5%. The number of political parties that succeeded in placing their representatives in the *DPR* in the 2014 election was the same as in the previous election in 2009, namely nine political parties. It is just that the Hanura Party failed to place its representatives in the *DPR* because it did not pass the 3.5% parliamentary threshold. The position of the Hanura Party was replaced by the Democratic National Party (*Nasdem*). The *Nasdem* Party is a new political party that was previously a social organisation. Debate has resurfaced regarding this parliamentary threshold; some experts think that the parliamentary threshold, which has a large percentage, has betrayed the principle of people's sovereignty. The parliamentary threshold resulted in wasted votes, and small political parties were unable to place their representatives in the *DPR*. In other words, the percentage of the parliamentary threshold that is too big does not reflect justice.

So far, the President and/or vice-president resulting from separate elections from the election of legislature members have not strengthened Indonesia's presidential government system. The pairs of presidential and/or vice-presidential candidates often create temporary tactical coalitions with political parties, so they do not create long-term coalitions that can naturally simplify political parties.³³ Simultaneous elections starting in 2019 are expected to

²⁹ Saldi Isra, *Pergeseran Fungsi Legislasi : Menguatnya Model Legislasi Parlementer Dalam Sistem Presidensial Indonesia* (Jakarta: RajaGrafindo Persada, 2010).

³⁰ Scott Mainwaring, "Presidentialism, Multipartyism, And Democracy," *Comparative Political Studies* 26, No. 2 (July 1, 1993): 200, <https://doi.org/10.1177/0010414093026002003>.

³¹ Denny Indrayana, "Sistem Presidensial Yang Adil Dan Demokratis," in *Pidato Pengukuhan Jabatan Guru Besar Pada Fakultas Hukum Universitas Gadjah Mada* (Yogyakarta, 2012), 14.

³² Indrayana.

³³ Ni'matul Huda and M. Imam Nasef, *Penataan Demokrasi Dan Pemilu Di Indonesia Pasca Reformasi* (Jakarta: Kencana Prenada Media Group, 2017).

encourage the strengthening of the presidential government system with the emergence of government effectiveness. Through simultaneous elections, the resulting government is more stable due to the coattail effect; namely, the election of a presidential candidate from a certain political party or coalition of political parties will affect the election of legislators from a certain political party or coalition of political parties as well.³⁴ In other words, holding simultaneous elections is expected to increase the *DPR*'s political support for the elected President so conflicts between the executive and the legislature can be avoided.

Therefore, the Election Act was revised, and when the act was about to be revised, a tough debate surfaced regarding what percentage was right for the parliamentary threshold. The election act was finally passed, namely Act Number 7 of 2017 concerning Simultaneous General Elections with a parliamentary threshold percentage of 4%, as stated in Article 414 paragraph (1) that political parties participating in elections must meet the minimum vote acquisition threshold at least 4% (four per cent) of the total valid votes nationally. The author considers that the percentage of 4%, whose increase is only 0.5% from 3.5%, is a form of compromise against the debate about the parliamentary threshold so far.

This percentage of 4% does not make the number of political parties in the *DPR* simpler because the increase is very small. The number of political parties that passed the parliamentary threshold in the 2017 simultaneous elections was relatively the same as in the previous election in 2014. It is indeed quite difficult to make multiparty in Indonesia simpler with the number of political parties below nine, even though simple multiparty can guarantee effectiveness and stability in the presidential system of government. With the enactment of the parliamentary threshold in Indonesia's multiparty system, no political party will control the majority of seats in the *DPR*.

The practice of a multiparty presidential government system, which is accompanied by a parliamentary threshold, of course, raises, raises the potential to bring up many presidential and/or vice-presidential candidates during the election. Each political party certainly has its own candidate. To anticipate this, since the election of the President and/or vice president was carried out directly by the people in 2004, the presidential threshold was also applied as stated in the Act Number 23 of 2003 concerning the General Election of the President and Vice President Article 5 paragraph (4)). This article states that the pairs of presidential and vice-presidential candidates can only be nominated by political parties or coalitions of political parties that obtain at least 15% of the total number of seats for members of the *DPR* or 20% of the valid votes nationally in the election for members of the *DPR*. As a result, five pairs of candidates were selected during the presidential and vice-presidential elections in 2004. The election was held in two rounds until the president and vice president pair, namely Soesilo Bambang Yudhoyono and Jusuf Kalla, were finally elected. The hectic relationship between the legislature and the executive during the first period of the administration of President Soesilo Bambang Yudhoyono and Vice President Jusuf Kalla was caused by the fact that the elected President did not come from the political party that won the 2004 legislative elections. The political party that won at that time was Golkar.

³⁴ Huda and Nasef.

Based on the experience of implementing the 2004 election, the percentage of the presidential threshold in the next election was increased to 20% through Act Number 42 of 2008 concerning the General Election of President and Vice President Article 9. The 2009 presidential and vice-presidential election, with a presidential threshold percentage of 20%, resulted in fewer candidate pairs than in the previous election; namely, there were only three presidential and vice-presidential pairs.

The provision for a presidential threshold of 20% was maintained in the 2014 and 2019 presidential and vice presidential elections. During the discussion of the draft of the election act, which later became Act Number 7 of 2017, concerning Simultaneous General Elections, there was a conflict in determining the presidential threshold. The issue that causes the conflict is the presidential threshold because it is a scourge in itself for those who want to abolish a percentage who based their reasons on violating the constitution. There are two camps in the discussion of the draft of the Election Act. The first camp supported the 20% or 25% presidential threshold, consisting of the *PDIP*, *Golkar*, *Nasdem*, *PPP*, *PKB*, and *Hanura* factions.³⁵ Some of them were political parties that supported Joko Widodo and Yusuf Kalla in the 2014 presidential and vice presidential elections, often called the Great Indonesian Coalition (*KIH*) at that time, due to the increasing number of political parties joining the coalition (*Golkar*, *PAN*, and *PPP*). The name of the coalition changed to the Government Support Party Coalition (*KP3*), which now consists of *PDIP*, *Golkar*, *PAN*, *PKB*, *PPP*, *Nasdem*, *Hanura* and other parties that have not entered parliament, such as the Indonesian Justice and Unity Party (*PKPI*), Indonesian Solidarity Party (*PSI*), and the Indonesian Unity Party (*Perindo*). It is not surprising that the 20% or 25% camp supports the amount of figures proposed by the President,³⁶ because they are members of *KP3* whose main objective is to support the government of President Joko Widodo and Vice President Jusuf Kalla, while the position of the 0% camp or the abolition of the presidential threshold is the government opposition, namely the *Gerindra*, *Democrat*, *PKS*, and *PAN* factions.

The percentage of the presidential threshold of 20% is considered not to provide a sense of justice for political parties and individuals who wish to propose as candidates for President and vice president. The issue of the percentage of the presidential threshold is indeed controversial. The latest data show that there are fourteen requests for judicial reviews related to the presidential threshold. The following are the 14 requests :³⁷ 1) Case Number 44/PUU-XV/2017; 2) Case Number 53/PUU-XV/2017; 3) Case Number 59/PUU-XV/2017; 4) Case Number 70/PUU-XV/2017; 5) Case Number 71/PUU-XV/2017; 6) Case 72/PUU-XV/2017; 7) Case Number 49/PUU-XVI/2018; 8) Case Number 50/PUU-XVI/2018; 9) Case Number 54/PUU-XVI/2018; 10) Case Number 58/PUU-XVI/2018; 11) Case Number 61/PUU=XVI/2018; 12) Case Number 92/PUU-XVI/2018; 13) Case Number 74/PUU-XVIII/2020. Ferry Yuliantono is submitting the 14th request regarding the presidential threshold with his attorney, Refly Harun. Until now, dozens of requests related to this matter

³⁵ Faikurrohman and Nurul Silvia, "Kontestasi Parpol Dalam Pembahasan Presidential Threshold Pemilihan Presiden Dan Wakil Presiden," <https://repository.unair.ac.id/>, n.d., https://repository.unair.ac.id/75025/6/Jurnal_Fis.P.73_18_Fai_k.pdf.

³⁶ Faikurrohman and Silvia.

³⁷ Andi Saputra, "Gugatan Presidential Threshold 0%: 13 Kali Ditolak MK, Kini Digugat Lagi," *Detiknews*, 2021.

have been submitted for judicial review by the *MK*, and none of the requests regarding the abolition of the percentage of the presidential threshold was decided by the *MK*, even though in this decision, there were judges of the Constitutional Court who had a dissenting opinion regarding the amount of the presidential threshold of 20%. The differences of opinion based on the judge's assessment had to be put aside,³⁸ because the majority of judges still maintained the 20% presidential threshold percentage.

The Constitutional Court considers the percentage of the presidential threshold as a form of open law policy as intended by Article 6A paragraph (5) of the 1945 Constitution of the Republic of Indonesia, and this is constitutional because it is an implementation of Article 6A paragraph (4) of the 1945 Constitution of the Republic of Indonesia which states that the procedure for implementing presidential and vice-presidential elections. The Constitutional Court first issued a decision regarding the constitutionality of the presidential nomination threshold through the Constitutional Court Decision Number 51-52-59/PUU-VI/2008, which stated that the presidential nomination threshold is a form of an open legal policy.

However, some experts consider the presidential threshold unconstitutional because it contradicts the provisions of Article 6A paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which explicitly states that the pair of presidential and vice-presidential candidates are proposed by a political party or a coalition of political parties. Former Chief Justice of the Constitutional Court Jimly Asshiddiqie agreed if the presidential threshold was abolished to 0% or equated with the parliamentary threshold or lowered to be significant. Jimly Asshiddiqie considers that the presidential threshold of 0% is most suitable for countries that adhere to a democratic system. Slightly different from Jimly Asshiddiqie, Mahfud MD argues that a presidential threshold is still needed, but the percentage is equated with the parliamentary threshold,³⁹ because if the presidential threshold remains 20%, there will likely be only two pairs of presidential and vice-presidential candidates. The enactment of the parliamentary and presidential threshold through election acts and political parties is actually a step to strengthen the presidential government system that Indonesia chose through the *MPR* Working Committee at the beginning of the 1998 reform. With the presidential threshold, political parties will form a coalition to support the presidential and vice-presidential candidates. This coalition is expected to be permanent, meaning it will last until the President and vice president are elected and will continue to be solid when the cabinet is formed. With the existence of this solid coalition, the tension between the President (executive) and the *DPR* (legislative), as is common in multiparty presidential government systems, can be avoided as much as possible. Suppose there is no presidential threshold in Indonesia's multiparty presidential government system. In that case, it will be quite difficult to create a strong executive position with support from the legislature because, in a multiparty system, no political party gets a majority of votes in elections. The support of a strong legislative majority (*DPR*) for the executive (President) will affect the effectiveness and stability of Indonesia's multiparty presidential government system.

³⁸ John Hart Ely, *Democracy and Distrust: A Theory of Judicial Review* (England: Harvard University, 1980).

³⁹ Didik Mashudi, "Prof Dr Mahfud MD Usulkan Pada Pilpres 2024 Presidential Threshold Harus Diturunkan, Ini Alasannya," <https://surabaya.tribunnews.com/>, 2019.

If analysed further, it can be said that the parliamentary and presidential threshold are "forms of deviation" from the theories of the government system put forward by political and constitutional experts. Theoretically, the term presidential threshold is not known in a presidential government system. In the country where the presidential government system was born, the United States of America, there has never been a presidential threshold policy. Likewise, in other countries that practice a presidential system of government, Indonesia still needs to implement the presidential threshold. Likewise, an open law policy in the form of a parliamentary threshold is not commonly practised in countries with a presidential system of government. It is no exaggeration to say that applying the parliamentary and presidential thresholds simultaneously shows how complicated Indonesia's multiparty presidential government system is. The parliamentary and presidential thresholds are theoretically not correlated with a presidential system of government. However, applying the two voting threshold provisions is forced to be practised in situations such as in Indonesia for effective and efficient governance. So, to unravel this complexity, a reform of the legal politics of the electoral vote threshold.

The Ideal Concept of the Renewal of Legal Politics of Vote Thresholds in the General Election as an Effort to Strengthen the Indonesian Presidential Government System

Historically, the vote thresholds for general elections have been described in the background section of this paper. In short, the general election vote threshold has been implemented since the 2004 legislative election. During the 2004 elections, apart from the electoral threshold being implemented, there was also a presidential threshold provision in the election of the President and the Vice President. During the 2009 legislative elections, the electoral threshold provisions were replaced with the parliamentary thresholds. After passing the verification and participating in the election, the political party will be selected through the parliamentary threshold provisions to place its representatives in the *DPR*. These provisions continued to be maintained until the legislative elections and the presidential and vice-presidential elections in 2024.

It is undeniable that the percentage of the parliamentary threshold applied every time an election is held every five years will impact small political parties. Small political parties certainly need help to fulfil these provisions. There will be a lot of wasted national votes, and small political parties will need representatives in the *DPR*. This is a consequence of the enactment of the parliamentary threshold. However, as a country that practices a multiparty presidential system of government, this filtering of political parties is unavoidable. For this reason, it is necessary to reform the legal and political threshold for voting (parliamentary threshold) for elections in Indonesia by considering justice for voters and small political parties. In addition, it is also necessary to reform the legal politics that regulate the establishment of new political parties and parties that pass verification as election participants. Regarding the issue of the percentage of the presidential threshold, legal political reform is also needed so as not to cause prolonged debate and polemic and so as to bring justice to those who debate and dispute the magnitude of the presidential threshold percentage.

The effort to reform the legal politics of the electoral vote threshold, as the theory of *trias politica* put forward by Montesquieu, actually starts from the realm of legislative power as a

legislator. However, in Indonesia, the submission and discussion of draft laws are jointly carried out by the President and the *DPR*, as stated in Article 5 paragraph (1) and Article 20 paragraph (2) of The 1945 Constitution of the Republic of Indonesia. This means that in making legislation in Indonesia, the President and *DPR* collaborate to produce law as a political product based on the concept of *das sein* which conceptualises law as an act.⁴⁰ Suppose law is conceptualised as an act by the legislature (*DPR*). In that case, the law is a political product because it is a crystallisation of competing political wills through political compromise or domination by the largest political power.⁴¹ But the statement that law is a political product will only be right if the basis is *das sollen* or law is interpreted as an act. Law and politics can be based on *das sein* (fact) and *das sollen* (desire or necessity).⁴² This statement can be applied in the context of reforming the legal politics of the electoral vote threshold as an effort to strengthen Indonesia's presidential government system.

By *das sein* (law), the Indonesian government system is presidential, as implied in several articles of the 1945 Constitution of the Republic of Indonesia. However, the Indonesian government system is a multiparty presidential system which also practices the characteristics of a parliamentary system of government. The parliamentary characteristics in the Indonesian presidential government system include the existence of a coalition of political parties, the election of ministers by the President, which accommodates political parties supporting the President during elections, the existence of political parties that express opposition to the government even though government opposition is not known in a presidential system of government. This fact is confronted with the desire to strengthen Indonesia's multiparty presidential government system. This effort can be started by reforming the legal politics of the electoral vote threshold (parliamentary and presidential threshold). The Simultaneous Election Act Number 7 of 2017 has stipulated that the parliamentary threshold is 4% and the presidential threshold is 20%. This percentage could be better. It would be ideal if the percentage of the parliamentary threshold was lowered back to 2.5% so that only a few national votes are wasted, but that should be accompanied by the tightening of political parties that are allowed to participate in elections.⁴³

According to the National Coordinator of the Indonesian Voters Committee, Jeirry Sumampouw, the parliamentary threshold should ideally remain at 2.5%. In line with this statement, *Perludem* researcher Khoirunnisa Agustyati said that increasing the parliamentary threshold would not have an impact on simplifying the number of political parties. So far, the parliamentary threshold has been considered an attempt to simplify the number of political parties, but increasing the percentage of the parliamentary threshold is just a shortcut. When referring to the results of the 2014 and 2019 elections, an increase in the parliamentary threshold cannot simplify the number of political parties. The size of this percentage is based on observations during three elections in the 2009 to 2019 election period. The number of political parties that can meet the provisions of the parliamentary threshold percentage is

⁴⁰ Moh. Mahfud MD, *Politik Hukum Indonesia* (JAKARTA: PT. Raja Grafindo Persada, 2011).

⁴¹ MD.

⁴² MD.

⁴³ “Perludem: Peningkatan Ambang Batas Parlemen Tak Berdampak Penyederhanaan Partai,” <https://perludem.org/>, 2020.

stagnant at nine, and their formation has relatively not changed much. Then, the verification of political parties was tightened; only political parties that had been established for at least five years could become election participants. This means that political elites may form new political parties as a manifestation of the rights to associate and assemble but cannot automatically become election participants.

Likewise, the presidential threshold percentage could be lowered to be the same as the parliamentary threshold, namely 2.5%. This is a form of compromise or middle way from the desire of some circles to abolish the presidential threshold. This means that every individual candidate for President and vice president can run for office through a political party or a coalition of political parties (coalitions) that wins a seat in the *DPR*. Thus, the negative impact of having only two pairs of presidential and vice-presidential candidates can be avoided. These negative impacts include political polarisation between the supporters of the two presidential and vice-presidential candidates. During the 2014 and 2019 elections, there has been political polarisation in society. This polarisation peaked before, during, and after the 2019 presidential and vice-presidential elections. This means that political parties or coalitions of political parties wishing to nominate pairs of candidates for President and vice president only need to invite a few political parties to form a coalition to meet the presidential threshold requirements when they contest the presidential and vice-presidential election. This is also intended to avoid the politics of "cow trading" or reciprocation in the President's cabinet formation so that the cabinet will be filled by more professional experts, not only from political parties (*zaken cabinet*). However, this only applies if the President comes from a majority political party or is supported by the party that won the legislative elections and controls the legislative seats (*DPR*).

Logically, if the presidential threshold becomes 2.5%, there will likely be many pairs of presidential and vice-presidential candidates participating in the presidential and vice presidential elections. Political parties that pass the provisions of the parliamentary threshold may have their pair of presidential and vice-presidential candidates. This is something that cannot be avoided. For this reason, a shared consensus is needed in forming a coalition. It is no exaggeration if consensus democracy is to the Indonesian nation's philosophy of Pancasila, namely deliberation for consensus applied in forming a coalition for Indonesia's presidential government system.

Theoretically, the provisions for the presidential threshold are unknown when viewed from the characteristics of a presidential government system. However, to strengthen Indonesia's presidential government system, this policy is still feasible to maintain. Suppose the percentage of the presidential threshold is removed. In that case, there may be many pairs of candidates for President and Vice President, as happened during the 2004 election, resulting in the implementation of the Presidential and Vice-Presidential elections at that time being held twice. This, of course, will be very draining in terms of costs, energy, and time so that it could be more effective and efficient. Attempts to conduct a judicial review regarding the presidential threshold are futile because, of course, the *MK* judges will uphold the previous judges' decisions. It is more appropriate if the desire to change or abolish the presidential threshold can be started from the legislative sphere (*DPR*), even though until now, the *DPR* has no plans to

improve or change articles in the election act relating to the electoral vote threshold until it the public is truly harmed by these rules or by Arthur Schlesinger called judicial activism.⁴⁴

The problems related to the threshold of votes (parliamentary and presidential thresholds in the elections in Indonesia seem endless, especially if this is related to a multiparty presidential government system that has been agreed upon by the *MPR*'s Working Committee. Applying the parliamentary and presidential threshold percentages with the accompanying pros and cons shows how complicated Indonesia's current multiparty presidential government system is. The parliamentary and presidential threshold policies are also emergency steps that must be taken to stabilise Indonesia's presidential government system. The choice now is to formulate the ideal parliamentary and presidential threshold percentages in a balanced way through responsive legal politics formulated through the election act so that they can be accepted and create a sense of justice for all parties who are pro and con. Then, the option to purify the presidential government system, which was previously agreed upon by the *MPR*'s Working Committee, also needs to be reviewed again. This means that Indonesia's presidential government system needs to be reconstructed so that the conditions can obtain an ideal format and the "commotion" that occurs over and over again regarding the size of the provisions on the parliamentary percentage and presidential threshold can be controlled.

CONCLUSION

The reform of legal politics of voting thresholds in Indonesia's elections is theoretically unrelated to and not correlated with the multiparty presidential system of government chosen and then put into practice by Indonesia. There is no need for a parliamentary threshold and a presidential threshold. Strengthening Indonesia's multiparty presidential government system has to start with the reform of the legal politics of the electoral vote threshold (parliamentary and presidential threshold). Because Indonesia's multiparty presidential government system, theoretically and practically, is quite complicated, so it always causes problems. This reform will strengthen Indonesia's multiparty presidential government system.

The ideal concept of reforming the legal and political threshold for electoral votes is to strive for ideal parliamentary and presidential threshold percentages so that they can be accepted and create a sense of justice for all parties who are pro and con. The percentage of the parliamentary threshold can be lowered back to 2.5% so that only a few national votes are wasted, but it should be accompanied by tightening the verification of political parties. Only political parties that have existed for at least five years may participate in the elections. Likewise, the presidential threshold percentage can be significantly reduced to 2.5%. If there is a coalition in the framework of nominating the President and vice president, then it is also important to establish a joint consensus. This is a form of compromise and a middle way for the desire of some circles to abolish the presidential threshold. The desire to change or abolish the presidential threshold can be started from the legislative (*DPR*) domain. Apart from that, the option to purify the presidential government system, which the *MPR*'s Working Committee previously agreed upon, must also be reviewed and reconstructed so that an ideal format can be obtained.

⁴⁴ Keenan D. Kmiec, "The Origin and Current Meanings of 'Judicial Activism,'" *California Law Review* 92, no. 5 (October 2004): 1446, <https://doi.org/10.2307/3481421>.

REFERENCES

- Ardhanariswari, Riris, Eko Nursetiawan, Syarafina Dyah Amalia, Enny Dwi Cahyani, and Rozlinda Mohamed Fadzil. "Upholding Judicial Independence through the Practice of Judicial Activism in Constitutional Review: A Study by Constitutional Judges." *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 2 (2023): 183.
- Arsil, Fitra. *Teori Sistem Pemerintahan : Pergeseran Konsep Dan Saling Kontribusi Antar Sistem Pemerintahan Di Berbagai Negara*. Edited by PT RajaGrafindo Persada. Depok, 2017.
- Cheibub, Jose Antonio. *Presidentialism, Parliamentarism, and Democracy*. Cambridge United Kingdom: Cambridge University Press, 2007.
- Ely, John Hart. *Democracy and Distrust : A Theory of Judicial Review*. England: Harvard University, 1980.
- Faikurrohman, and Nurul Silvia. "Kontestasi Parpol Dalam Pembahasan Presidential Threshold Pemilihan Presiden Dan Wakil Presiden." <https://repository.unair.ac.id/>, n.d.
- GANGHOF, STEFFEN. "A New Political System Model: Semi-Parliamentary Government." *European Journal of Political Research* 57, no. 2 (May 2018): 269. <https://doi.org/10.1111/1475-6765.12224>.
- Hariyanto, Hanif Fudin, Muhammad Fauzan, Kadar Pamuji, and Tedi Sudrajat. "The Communal Democracy of Yogyakarta Special Region's Government on the Islamic Law Eclecticism Perspective." *Al Ihkam: Jurnal Hukum Dan Pranata Sosial* 18, no. 1 (2023): 216.
- Huda, Ni'matul, and M. Imam Nasef. *Penataan Demokrasi Dan Pemilu Di Indonesia Pasca Reformasi*. Jakarta: Kencana Prenada Media Group, 2017.
- Indarti, Erllyn. "Diskresi Dan Paradigma : Sebuah Telaah Filsafat Hukum." In *Pidato Pengukuhan Jabatan Guru Besar Pada Fakultas Hukum Universitas Diponegoro*, 4. Semarang, 2010.
- . "Kuliah Ke VII Filsafat Ilmu : Suatu Kajian Paradigmatik." In *Program Doktor Hukum Fakultas Hukum Universitas Diponegoro*, 2. Semarang, 2015.
- Indrayana, Denny. "Sistem Presidensial Yang Adil Dan Demokratis." In *Pidato Pengukuhan Jabatan Guru Besar Pada Fakultas Hukum Universitas Gadjah Mada*, 14. Yogyakarta, 2012.
- Isra, Saldi. *Pergeseran Fungsi Legislasi : Menguatnya Model Legislasi Parlementer Dalam Sistem Presidensial Indonesia*. Jakarta: RajaGrafindo Persada, 2010.
- Isra, Saldi, and Khairul Fahmi. *Pemilihan Umum Demokratis : Prinsip-Prinsip Dalam Konstitusi Indonesia*. Jakarta: RajaGrafindo Persada, 2019.
- Jones, Mark P. *Electoral Laws and The Survival of Presidential Democracies*. Notre Dame: University of Notre Dame Press, 1995.
- Jurdi, Fajlurrahman. *Pengantar Hukum Pemilihan Umum*. Jakarta: Prenada Media Group, 2018.
- Kmiec, Keenan D. "The Origin and Current Meanings of 'Judicial Activism.'" *California Law Review* 92, no. 5 (October 2004): 1446. <https://doi.org/10.2307/3481421>.
- Kurnia, Titon. "Presidential Candidacy Threshold and Presidentialism Affirmation in Indonesia." *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 07, no. 03 (January 2021): 362. <https://doi.org/10.22304/pjih.v7n3.a4>.

- Liddle, R. William, and Saiful Mujani. "Indonesia in 2005: A New Multiparty Presidential Democracy." *Asian Survey* 46, no. 1 (February 2006): 132. <https://doi.org/10.1525/as.2006.46.1.132>.
- MAINWARING, SCOTT. "Presidentialism, Multipartism, and Democracy." *Comparative Political Studies* 26, no. 2 (July 1993): 200. <https://doi.org/10.1177/0010414093026002003>.
- Mainwaring, Scott, and Matthew Shugart. "Working Paper Juan Linz, Presidentialism, and Democracy: A Critical Appraisal," 1993.
- Mashudi, Didik. "Prof Dr Mahfud MD Usulkan Pada Pilpres 2024 Presidential Threshold Harus Diturunkan, Ini Alasannya." <https://surabaya.tribunnews.com/>, 2019.
- MD, Mahfud. *Politik Hukum Di Indonesia*. Depok: PT RajaGrafindo Persada, 2020.
- MD, Moh. Mahfud. *Politik Hukum Indonesia*. JAKARTA: PT. Raja Grafindo Persada, 2011.
- Partono. "Sistem Multipartai, Presidensial Dan Persoalan Efektivitas Pemerintah." *Legislasi Indonesia* 5, no. 1 (2008): 16.
- "Perludem: Peningkatan Ambang Batas Parlemen Tak Berdampak Penyederhanaan Partai." <https://perludem.org/>, 2020.
- "Perludem Uji Materi Ketentuan Ambang Batas Parlemen (Parliamentary Threshold)." <https://perludem.org/>, 2020.
- Rahardjo, Satjipto. *Ilmu Hukum*. Bandung: Citra Aditya Bakti, 1991.
- Romli, Lili. *Sistem Presidensial Indonesia: Dinamika, Problematik, Dan Penguatan Pelembagaan*. Malang: Setara Press, 2019.
- Santoso, Topo, and Ida Budhiati. *Pemilu Di Indonesia: Kelembagaan, Pelaksanaan, Dan Pengawasan*. Jakarta: Sinar Grafika, 2019.
- Saputra, Andi. "Gugatan Presidential Threshold 0%: 13 Kali Ditolak MK, Kini Digugat Lagi." *Detiknews*, 2021.
- Satriawan, Iwan, and Tanto Lailam. "Open Legal Policy Dalam Putusan Mahkamah Konstitusi Dan Pembentukan Undang-Undang." *Jurnal Konstitusi* 16, no. 3 (October 2019): 561–62. <https://doi.org/10.31078/jk1636>.
- Sihombing, Eka N.A.M. *Politik Hukum*. Medan: Enam Media, 2020.
- Sra, Saldi I. *Sistem Pemerintahan Indonesia: Pergulatan Ketatanegaraan Menuju Sistem Pemerintahan Presidensial*. Depok: PT RajaGrafindo Persada, 2020.
- Umam, Shohibul. "Mahfud MD Jelaskan Gagasan Membangun Hukum Di ISNU." *LEMBAGA NEGARA PENGAWAL KONSTITUSI*, 2012.
- Wheare, K.C. *The Modern Constitution 3 Rd Impression*. London-New York-Toronto: Oxford University Press, 1975.
- Wignjosoebroto, Soetandyo. *Hukum: Paradigma, Metode, Dan Dinamika Masalahnya*. Jakarta: Lembaga Studi dan Advokasi Masyarakat (ELSAM) dan Perkumpulan Untuk Pembaharuan Hukum Berbasis Masyarakat dan Ekologi (HUMA), 2002.
- Wijayanti, Septi Nur, and Kelik Iswandi. "Sinergitas Kabinet Presidensiil Multipartai Pada Masa Pandemi Covid-19 Di Indonesia." *Jurnal Konstitusi* 18, no. 2 (November 2021): 445. <https://doi.org/10.31078/jk1828>.
- Yudha, Hanta. *Presidensialisme Setengah Hati: Dari Dilema Ke Kompromi*. Edited by PT Gramedia Pustaka Utama. Jakarta, 2010.