

PRESIDENTIAL NEUTRALITY AND POSITION IN THE 2024 PRESIDENTIAL ELECTION: A CONSTITUTIONAL LAW AND COMPARATIVE LAW PERSPECTIVE

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ABSTRAK

In the event of the 2024 presidential election, the neutrality and position of the president play a key role in ensuring the continuity of democracy and justice. This article aims to investigate these issues from the perspective of constitutional law and comparative law. Through a normative juridical approach, this article explores the neutrality and position of the president in the 2024 general election from the perspective of constitutional law and comparative law. The data sources used come from primary and secondary sources. Based on the results of the analysis, it can be stated that the president as the people who have the right to vote and as the head of state who must prioritize neutrality towards the general election is prohibited from inviting others or the public to vote for one of the candidates. In addition, a legal comparison conducted with Malaysia, the Philippines, and South Korea found that the general elections conducted are almost the same as those conducted by Indonesia. Except Malaysia, because its form of government is a parliamentary constitutional monarchy. This means that executive power is held by the prime minister, who is the head of government and leads the cabinet. The Prime Minister is chosen from members of Parliament, who are members of the legislature elected by the people in general elections.

Keywords: *Comparative Law, Constitutional Law, Neutrality, General Election, Presidential Position*

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INTRODUCTION

Elections are the means by which a country determines its leaders, both at the parliamentary level and to elect executives such as mayors, governors, presidents or prime ministers (Rosanvallón, 2018). The practice of elections characterizes democratic countries, in contrast to countries that tend to be authoritarian. The electoral process enables people's participation in determining their views on government and the state, and is the foundation of a democratic system (Michels & De Graaf, 2010). In accordance with Article 1 Point 1 of Law No. 10 of 2008 in Indonesia, general elections are regulated as a means of exercising the sovereignty of the people, which must be conducted directly, open to all, without coercion, secretly, fairly, and based on the values of Pancasila and the 1945 Constitution of the Republic of Indonesia (Canaldhy et al., 2023).

General elections are a method of electing representatives of the people in a country that adheres to a democratic system (Setyagama, 2021). In other words, in the context of constitutional law, elections are part of the regulations that govern the structure and operations of a country's government. According to Maurice Duverger (Farkhani et al., n.d.), this includes various aspects such as the mechanism of the representative system, the electoral process, the functions of parliament, the cabinet, the head of government, and so on relating to the constitutional rights of the people in running the state government.

According to (Farkhani et al., n.d.), the implementation of general elections is a very important moment in the formation of government and state management for the next period. The continuity of periodic elections is very important for several reasons. First, people's opinions and aspirations related to various aspects of life together in society are dynamic and develop from time to time. Second, the conditions of social life in society can change, both

due to dynamics on an international scale and due to domestic factors. Third, changes in people's aspirations and views can also occur due to the increase in the number of people who have grown up and are entitled to vote (new voters). Fourth, elections need to be held regularly to ensure that there is a change in the leadership of the country, both at the legislative and executive levels.

In Indonesia, regulations related to general elections, especially the election of president and vice president, are contained in Law Number 42 of 2008 concerning Election of President and Vice President (Taufan & Pujiyanto, 2019). Meanwhile, regarding general elections, the Indonesian constitution also regulates this matter in the 1945 Constitution of the Republic of Indonesia, especially in Article 22E which consists of six paragraphs. The presidential election process is regulated by a direct general election mechanism in accordance with the provisions of the 1945 Constitution of the Republic of Indonesia, Article 22E paragraph 1, which states: "General elections are carried out directly, publicly, freely, secretly, honestly and fairly every five once a year."

The president is the head of state and highest government in a country (Mustomi & Siregar, 2023). Typically, they are elected through general elections and are responsible for government policy, implementation of laws, and national security. The president also has a role in representing the country at the international level, establishing diplomatic relations, and making important decisions regarding foreign policy. In a democratic system, the president must be responsible to the people and carry out his duties by complying with the constitution and democratic principles (Sabrina & Khalid, 2023).

In general, the president's neutrality during elections is considered important to ensure that the democratic process takes place in a fair and transparent manner (Ceaser, 2017). A neutral president should not take sides or support any particular candidate, but ensure that all parties have an equal opportunity to compete in elections. The president's neutrality during elections is also important to maintain the integrity of the democratic process and maintain public trust in government institutions. When the president shows his neutrality, this can avoid abuse of power or interference that could harm the election process and public confidence in the results. Thus, presidential neutrality during elections is considered a very important principle in ensuring that elections take place well and reflect the will of the people in a fair and democratic manner (SH, 2023).

Based on the explanation above, the author wants to examine in more depth the neutrality and position of the president in the 2024 general election from the perspective of constitutional law and comparative law. It is hoped that the results of this research can contribute to the legal literature regarding presidential neutrality in general elections.

METHODS

This research uses the normative juridical method, which means focusing on the problems discussed by applying principles or norms in positive law (Amatahir, 2023). This approach is carried out by studying various formal legal regulations such as laws, as well as theoretical literature which is then connected to the issues being debated.

The data sources utilized include primary legal sources, such as legal regulations, official records of lawmaking, and judges' decisions. Secondary legal materials included sources such as textbooks, legal research reports, law journals containing expert and academic analyses of legal products and court decisions, transcripts of legal seminars, documents containing legal opinions, monographs, newsletters and other publications discussing parliamentary debates and hearings, declarations and websites.

After collecting various information related to the problem under study, then an analysis is carried out to get a conclusion. The analysis used is using deductive legal analysis, which is a method of legal interpretation that follows a logical approach from general principles of law to

specific fact situations. This approach focuses on the application of existing legal rules to understand and resolve certain legal issues. The analysis process begins by identifying relevant legal principles and then applying them logically to reach a conclusion about how the law should be applied in a particular situation. This involves deduction or drawing specific conclusions from more general legal principles. Deductive legal analysis is often used in legal argumentation, decision-making, and case resolution in the legal system. This method bases its interpretation on existing legal principles and the interpretation of specific cases according to the established legal framework.

The steps taken in this study include:

- a. Identifying legal facts and excluding non-essential information to determine the legal issues that need to be resolved;
- b. Collecting legal materials and, where relevant, non-legal sources;
- c. Analyze the legal issue presented based on the data collected;
- d. Conclude by forming an argument that answers the legal issue;
- e. Provide recommendations based on the arguments that have been developed in the conclusion.

RESULTS AND DISCUSSION

The Neutrality and Position of the President in the 2024 Presidential Election in the Perspective of Constitutional Law

Indonesia is a state of law, which means that the principles of the rule of law and the constitution are recognized, as well as the principle of separation and limitation of powers in accordance with the constitutional system set out in the Basic Law (Suksi, 2011). This also includes the guarantee of human rights in the Constitution, the principle of an independent and impartial judiciary to ensure the equality of every citizen in the eyes of the law, and the guarantee of justice for all, including in the face of abuse of power by the authorities (Simamora, 2014).

Historically, the government in Indonesia changed from a parliamentary republic to a presidential one after the constitutional amendment in 1950. In a presidential system, executive power is centralized in the president, who is directly elected by the people and is responsible for the governance of the country. The president acts as the head of state and head of government, has broad authority in implementing government policies and has the right to appoint and remove cabinet ministers (Krent, 2005). Although the president plays a central role in the government, the parliament still functions as the legislative body that has the authority to make laws and oversee government policies. This presidential system has been the basic framework for Indonesia's government structure since the beginning of political reform in 1998.

After the amendment of the 1945 Constitution, in Chapter III on the Powers of State Government, Article 4 emphasizes that the President of the Republic of Indonesia holds the power of government in accordance with the Constitution. In carrying out his duties, the President is assisted by one Vice President. The principle of Constitutional Government is affirmed by the 1945 Constitution, which also emphasizes that only one Vice President can exist, and his role is as an assistant to the President. In exercising his powers, there are several authorities granted to the president consisting of:

The constitutional authority of the President of the Republic of Indonesia covers various aspects, among others:

1. Holds office for 5 years and can be re-elected for one term of office.
2. With the approval of the DPR, declare war, make peace and treaties with other countries.
3. Submit a Draft Law to the DPR.

4. Make international agreements that have a broad and fundamental impact on people's lives and are related to the state's financial burden or the formation of laws with the approval of the DPR.
5. Ratify the draft law that has been jointly approved by the DPR and the President into law.
6. Establish Government Regulations to implement the Law.
7. Holds supreme power over the Army, Navy and Air Force.
8. Declare a state of danger.
9. Appoint ambassadors with the consideration of the DPR and appoint consuls.
10. Appoint and dismiss the Minister of State.
11. Accepting the placement of ambassadors from other countries with the consideration of the DPR.
12. Submit a Draft Law on the State Revenue and Expenditure Budget for discussion with the DPR for consideration by the Regional Representative Council (DPD).
13. Grant clemency and rehabilitation with the consideration of the Supreme Court.
14. Inaugurate the members of the Financial Audit Board who have been selected by the DPR.
15. Grant amnesty and abolition by taking into account the DPR's considerations.
16. Appoint Supreme Court Judges who are proposed by the Judicial Commission and receive approval from the DPR.
17. Giving titles, decorations and other signs of honor.
18. Appoint and dismiss members of the Judicial Commission with the approval of the DPR.
19. Form an Advisory Council.
20. Appoint Constitutional Judges.

In addition, constitutional powers are not all executive powers, but there are also non-executive powers, such as delegation of legislative power or delegation of rulemaking power and the granting of amnesty, clemency, abolition and rehabilitation, which are judicial powers.

In the context of a state of emergency, the Presidency has the authority regulated by Article 12 and Article 22 of the 1945 Constitution. Article 12 confirms that the President has the authority to declare a state of danger, with the conditions and consequences stipulated by law. Meanwhile, Article 22 of the 1945 Constitution authorizes the President to enact government regulations in lieu of laws in cases of compelling urgency. However, the government regulation must be approved by the House of Representatives in the next session. If it does not receive approval, the government regulation must be revoked. This shows that in a state of emergency, the President has great legislative authority, known as emergency legislation, where the Head of State has the authority to take quick and effective legislative measures to deal with the emergency situation.

The process of implementing general elections is expected to elect qualified leaders and in accordance with the will of the people. However, in the 2024 simultaneous general elections, every citizen has the right and obligation to determine their choice of candidates. However, there are some elements of society such as the Indonesian National Army (TNI) and the Indonesian National Police (POLRI) whose rights are regulated more specifically by law, where their activities to elect and be elected are not allowed in accordance with legal provisions.

The same also applies to the State Civil Apparatus (ASN), which has the right to vote, but in the campaign, process is required to demonstrate neutrality in terms of support for candidates for President, Vice President, as well as candidates for members of the DPR RI, DPD, Provincial DPRD, and Regency/City DPRD. The President, whose position as a state official,

can be equated with other state civil apparatus in terms of maintaining neutrality during the campaign.

The neutrality in question is not participating in terms of becoming members or administrators of political parties, not supporting or openly taking sides with political parties in public, not being involved in political activities carried out by political parties, not utilizing state facilities and authority obtained from positions for the benefit of political parties, and providing equal and non-discriminatory services to all groups in society (Sumangando et al., 2020).

There are several articles in the General Election Law that regulate various aspects related to campaign activities by the president. However, there is no provision that clearly explains the president's participation in the campaign.

Article 299 gives the incumbent president and vice president the right to campaign. However, the context of the article is that the incumbent president and vice president acquire this right when they stand as candidates in the next election, as they are considered participants in the election process.

Article 281 also stipulates that the president, vice president, ministers, governors and others can be involved in campaign activities. This means that the president can be invited to participate in the campaign. However, there are conditions that must be met, namely that they may not use the facilities of their office except for security purposes, and secondly, they must take leave outside the state's responsibility.

Article 282 states that state officials, structural officials, functional officials in public positions, and village heads are prohibited from making decisions or taking actions that may benefit or harm one of the election participants during the campaign period. The president is included in the category of state officials. Therefore, Article 282 restricts the president from being involved in the campaign, which can be interpreted as a prohibition for the president to take sides or provide benefits to one of the election participants during the campaign period.

Article 283 explicitly states that state officials, structural officials, functional officials in public positions, and other state civil servants are prohibited from conducting activities that can show partiality towards election participants before, during, and after the campaign period. This prohibition includes various activities such as meetings, invitations, appeals, calls, giving goods to state civil servants, family members, and to the public. This confirms that the president, as a state official, is prohibited from conducting activities that show support for election participants during the campaign period.

The understanding that the president has the right to participate in the election campaign, based on Article 23 paragraph (1) and Article 43 paragraph (1) of the Human Rights Law, as well as Articles 281 and 304 of the Election Law, must be interpreted comprehensively and holistically. This does not only include the understanding that the president is still allowed to take sides and participate in the campaign, but is also limited to the principles of healthy election ethics and ethics in exercising government power that is free from Corruption, Collusion and Nepotism (KKN), as mandated by the Reform movement in 1998.

The neutrality of a president, according to him, is actually implied in the principles contained in the highest rules of the game in the state, namely Article 4 paragraph (1), Article 9 paragraph (1), and Article 22E paragraph (1) of the 1945 Constitution of the Republic of Indonesia. These articles emphasize that the president must submit to the constitution, take an oath to carry out the obligations of the president as well as possible and as fair as possible, and be devoted to the country and the nation. In addition, elections must also be conducted in a direct, general, free, secret, honest and fair manner (*luberjurdil*). This shows that presidential neutrality is not only limited to legal provisions governing involvement in campaigns, but is also reflected in a commitment to exercise power in compliance with the constitution and strong democratic principles (Alwi, 2019).

Therefore, the president should take a statesmanlike stance by maintaining his neutrality and respecting electoral principles as stipulated in Article 22E paragraph (1) of the 1945 Constitution. In addition, the president must also remain focused on completing his duties until the end of 2024 and avoid making maneuvers that could confuse and disrupt the 2024 Election process.

Neutrality and the President's Position in the 2024 Presidential Election in a Comparative Legal Perspective

Apart from Indonesia, the practice of general elections is also carried out in countries with democratic forms of government. However, each country has different rules and political cultures. The following is a comparison of the constitutional legal system and how general elections are carried out by Malaysia, the Philippines and South Korea with Indonesia.

1. Malaysia

In general, the Malaysian legal system is influenced by the English Common Law System tradition (Zuliyah, 2021), while Indonesia adopts more of the Dutch civil law system tradition. In both countries, Islamic legal systems and customary law also have a significant influence on their national laws. Apart from that, the institutional formats of Malaysia and Indonesia also have striking differences. Malaysia is a federal country consisting of federal states and states, with a democratic monarchy system of government (Ahmed et al., 2019). On the other hand, Indonesia is a unitary state consisting of a central government and autonomous regions, with a republican government system based on the principles of constitutional democracy.

Apart from that, there are differences in the power distribution system between Malaysia and Indonesia when viewed from the Trias Political theory. In Malaysia, the Yang di-Pertuan Agong, who is the Head of State, holds three powers at once, namely executive power, legislative power and judicial power. Meanwhile, in Indonesia, these three powers exist separately, where executive power is held by the President, legislative power is held by the People's Representative Council, and judicial power is in the hands of the Supreme Court and the Constitutional Court (Umar, 2013).

Malaysia has implemented a system of electing its king since its independence from Britain in 1957 (Kamaruddin & Rogers, 2020). In a unique arrangement, a king will be elected by rotation from among the Kings or Sultans of the nine states in Malaysia which are currently still led by the King/Sultan. And there are four other states that are not monarchies and are not led by Kings/Sultans. Malaysia is one of the only modern Islamic monarchical countries that adheres to and maintains a rotating monarchical system of power.

Since 1999, the full honorary title of the Supreme Ruler of Malaysia has been, *Ke Bawah Duli Yang Maha Mulia Seri Paduka Baginda Sultan and Yang di Pertuan Agong*. This title is also supplemented by the honorary title *Duli Yang Maha Mulia (DYMM)*. Meanwhile, the wife or legal partner of the Yang di Pertuan Agong is referred to as the *Raja Permaisuri Agong*.

Election system

This system of rotation of power, which is very rare in the world, is implemented in several kingdoms, such as the United Arab Emirates, the Vatican, Austria and Andorra (Derbyshire & Derbyshire, 2016). In practice, this system de facto elects a king from nine kings after the five-year reign of the Yang di-Pertuan Agong. Formally, these nine kings gathered in the Assembly of Kings. The Yang di-Pertuan Agong is chosen based on the length of time he has ruled in his territory, especially in the states in Malaysia. After all the kings agreed, the inauguration of the new Yang di-Pertuan Agong was immediately carried out.

If the Yang di-Pertuan Agong dies after the inauguration, the election will be repeated by the Council of Kings. Then, the newly elected Yang di-Pertuan Agong will assume full power.

After his term ends, he will not be re-elected in the next election. The Majlis of Kings has existed since 1895. Membership of this Majlis also belongs to the governor or Yang Dipertua Negeri, but only the kings have the right to vote to elect the Yang di-Pertuan Agong.

Election Process

Elections are carried out using closed ballot papers, without numbers printed (ELECTIONS, 2015). Voters only need to write the number of their choice and insert the ballot paper into the ballot box. Only the kings, custodians of the emblems of power, and assistant secretaries of the House of Kings were involved in the election. A king can appoint a representative from another king to represent him if he is unable to attend the Electoral College. During the election process, the Guardian of the Seal of Power will distribute ballot papers, where each voter is only allowed to choose one king from a list of senior royals to become the Yang di-Pertuan Agong. The kings were asked to choose a king who was deemed suitable to become the Yang di-Pertuan Agong.

After that, the viceroys from the states of Melaka, Penang Island, Sabah and Sarawak took part in calculating the election results together with the holders of the symbols of power. The number of votes required to determine the new Yang di-Pertuan Agong is five. After that, the ruling King offered the position of Yang di-Pertuan Agong to the King who was elected in the Election Session. If the chosen King rejects the offer, the election will be repeated, with the choice falling on the second-ranking Senior King from the list of senior kingdoms.

The election process will officially end when the King accepts the Yang di-Pertuan Agong's offer of power from the reigning Raja. The Council of Kings then confirmed the elected King as the Yang di-Pertuan Agong for Malaysia, who would rule for 5 years. The ballot papers will be destroyed once the elected King takes office as a result of the election.

Position

The Yang di-Pertuan Agong holds the role of constitutional monarch under the Malaysian Constitution. As Federal Head of State, his powers are limited by laws passed by the Federal Parliament. Executive power rests in his hands, and his powers are divided into two:

- Power is held with the help of the Prime Minister, Ministers, Cabinet and the House of Lords.
- Power that is held absolutely without assistance from other state institutions.

The absolute power of the Yang di-Pertuan Agong applies in several matters, including in the election of the Prime Minister, the suspension of parliament, and meetings of the Council of Kings. Within the framework of the Westminster System, the Yang di-Pertuan Agong is asked to select one of the Prime Minister candidates to represent the votes of the Dewan Rakyat (Parliament) to the King. The Prime Minister can step down from office if he receives a vote of no confidence from the Dewan Rakyat. When this happens, the Yang di-Pertuan Agong will choose a new Prime Minister. By convention, a Prime Minister is the head of the party that has a majority in the House of Commons. In Malaysia, the ruling party since independence in 1957 is Barisan Nasional.

General elections in Malaysia are divided into two levels, namely the federal level and the state level. At the federal level, voters elect legislative members to the Dewan Rakyat, which is part of the Malaysian Parliament. Meanwhile, at the state level, voters elect legislative members for the State Legislative Council, which is the legislative assembly at the state level. The position of chief executive at the federal level is held by the prime minister, while at the state level, the position is held by the chief minister (for monarchical states) and the chief minister (for non-monarchical states). These two chief executives are elected directly from the winning party in the elections, both at the federal and state levels. Each state legislative assembly has the authority to dissolve itself independently. However, in practice, most state

assemblies dissolve themselves simultaneously with the Malaysian Parliament, except in elections in Sabah and Sarawak.

Federal level

At the federal or national level, voters will elect the 222 members of the Dewan Rakyat who will become part of the Malaysian Parliament. The Malaysian Constitution adheres to a multiparty political system with a First-Past-The-Post-System voting system, where the political party that succeeds in obtaining a majority of seats in the Dewan Rakyat or state legislative assembly has the right to form an executive government.

General elections in Malaysia are held every five years. However, the Prime Minister has the authority to ask the King of Malaysia, Sultan Yang di-Pertuan Agong, to dissolve Parliament at any time before the five-year period ends. After the dissolution of parliament, general elections must be held no later than two months for western Malaysia and no later than three months for eastern Malaysia. Since Malaysia's independence in 1957, the winner of general elections at the federal level has always been the Barisan Nasional, a coalition consisting of 14 parties. However, in the 2018 Malaysian General Election, for the first time in history, the Pakatan Rakyat coalition succeeded in defeating Barisan Nasional at the federal level.

Country/state level

At the country/state level, voters will choose legislative candidates to become members of the State Legislative Council, which will then sit in the state legislative assembly. The number of legislative members in each State Council varies, with Sarawak having the largest number of legislative members, namely 82 seats, while Perlis has the smallest number of seats, namely 15. As with federal elections, the party that wins the elections at the state level has the right to form the executive government.

Usually, state-level general elections are held simultaneously with parliamentary elections. However, each state has the power to determine the timing of general elections according to their own policies. Situations where state legislative assemblies are dissolved by the Sultan or governor of each state may occur on the advice of the chief minister or chief minister.

By-election

In Malaysia, apart from regular general elections, there are also by-elections (Oithman, 2009). This by-election occurs when there is a vacant seat for a member of parliament because the member of parliament dies, is disqualified from office, or is absent for six consecutive months without a clear reason. However, if the vacancy occurs less than two years before the next general election, then the seat will be left vacant until the next general election.

2. Philippines

In the 1987 constitution, article II paragraph I states that the Philippines is a democratic republic, where sovereignty is in the hands of the people and the government operates with authority originating from the people.

The Philippines adheres to a presidential system of government, where the head of state who is also the highest state body is the President (Abinales & Amoroso, 2017). In this presidential system, the President plays the role of head of government (executive), while the Senate and House of Representatives (legislative), as well as the Supreme Court (judicial), also have significant roles.

Through its legislative institutions, we can see that the Philippine government system has similarities with the United States government system. These similarities show that the Philippine political system and government are closely related to America's. This is based on

the fact that American history played an important role in the formation of democracy in the Philippines.

The Philippines is a unitary country, which means that the Philippines has one government that manages its entire territory. The three islands that make up this country are divided into 17 regions, with a government system centralized in Manila. The Philippines generally does not have local governments, except in the Cordillera Administration and Muslim Mindanao, which have their own regional autonomy.

The implementation of general elections held simultaneously between Indonesia and the Philippines in 2019 and 2016 had several similarities and differences that were not too significant. The background to the electoral system is similar, namely a multi-party system and the use of a presidential system in both countries. The new simultaneous general elections in Indonesia which were initiated by several figures and community coalitions became an impetus to change the previous general election system to simultaneous general elections, while the simultaneous general elections in the Philippines were the result of the mandate of the RA 7166 law (Arrata, 2023).

3. South Korea

South Korea's form of government is a presidential democratic republic (Lee, 2022). In this system, executive power is held by a president who is elected by the people through general elections. The president plays a major role in government, including in making political decisions and implementing state policies. In addition, South Korea has a legislative institution called the National Assembly, which is a bicameral legislative body consisting of the National Assembly and the National Council. This system emphasizes the principle of separation of powers between the executive, legislative and judiciary.

In general, South Korea uses a mixed electoral system, which combines the characteristics of district and proportional electoral systems (parallel systems). In this system, the proportional component does not directly compensate for votes in districts, but there is a system where each district has an elected member as well as proportional representation from the national party list. The current electoral system, which is based on a plural electoral system, is considered not completely fair. Majority parties benefit by gaining more seats than their vote share, while minority parties often have less representation than their vote share because they tend to pursue political stability through strong majorities. In a district system, each electoral district has only one elected representative. This means that in a district system, only the candidate with the most votes will represent the area, even if the vote difference is only one vote to the second-placed candidate.

General elections in South Korea are held at the national level to elect the President and National Assembly. The President is directly elected for a term of five years by a plurality of votes. However, the South Korean parliament uses a unicameral system or one chamber system known as "Kukhoe" or Korean National Assembly (KNA). The KNA is South Korea's only legislative body, consisting of 299 seats and elected every four years in all 245 constituencies, plus an additional 54 seats distributed to political parties based on the proportion of the vote they receive. This system is usually implemented by homogeneous republican countries and is considered not to require an upper house. However, the main power of the KNA is to enact, amend and repeal laws (Fikri et al., 2022).

The following is a comparison of the presidential election between Indonesia and South Korea.

| Characteristics | Indonesia | South Korea |
|------------------------|---|---|
| Election System | Indonesia uses a "two round presidential election" system | South Korea uses a mixed electoral system (Hybrid system) which combines both |

| | | |
|--------------------|---|---|
| | | electoral systems district and proportional (parallel system). |
| | The presidential election is directly elected for a term of office of 5 (five years) two terms or a maximum of 10 years of office with a plurality vote (most votes) | election The President is directly elected for a single term of 5 (five years) with a plurality vote (most votes) |
| | The President of Indonesia is accompanied by the Vice President during his term of office | The Korean president is accompanied by the National Assembly during his term of office |
| | The era form of government in Indonesia is a cabinet, usually this cabinet follows a change of president (for example, in the era of President Joko Widodo it was an advanced Indonesian cabinet) | The form of government in South Korea is a republic, currently there are 6 republics in Korea, this republic can change if a law is amended |
| Election Mechanism | The election system in Indonesia is regulated and administered by the General Election Commission (KPU) as regulated in Law no. 22 of 2007, the KPU is supervised by an independent institution above it, namely Bawaslu. | The election system in South Korea is regulated and administered by the National Election Commission (NEC). The NEC itself is an independent body tasked with organizing and supervising general elections in South Korea as regulated in (The Constitution of the Republic of Korea; 대한민국 헌법 [Hangul: Daehanmingug Heonbeob] article 114 |
| | The requirements for a candidate to nominate the Indonesian president must be proposed by a political party or a combination of several political parties | Requirements for presidential candidacy can be proposed through political parties and also through independents (single-member constituencies/SMCs) |
| | General elections in Indonesia tend to be more complex because, in one implementation, voters must elect the president and the people's representatives (DPR, DPRD, DPD) | In South Korea, general elections are held in a structured and separate manner, so voters choose the president and the National Assembly separately. |
| | In its development, elections in Indonesia are still carried out manually (voting via paper). | In its development, elections in South Korea have used digital technology where the validity of voter data is carried out directly on the National Identity Card (KTP). |
| | The requirement to become a presidential and vice-presidential candidate is to be at least 35 (thirty-five) years old | The requirements to become a presidential candidate are 40 years old and 35 years old for the National Assembly. |

CONCLUSION

In the context of the 2024 presidential election, the importance of maintaining neutrality and understanding the president's position from the perspective of constitutional law and

comparative law becomes very relevant. The analysis that has been carried out in this article highlights several important aspects:

1. **The Importance of Neutrality:** Presidential neutrality is one of the principles underlying the success of a fair and democratic presidential election. By maintaining his neutrality, the president can ensure that the election process is carried out fairly and transparently.
2. **The President's Role in Elections:** The President is an individual who has the right to vote in general elections, but must know his political boundaries because they relate to his position as president. This limitation is a prohibition on participating in campaigning to voice or encourage one of the candidates. A proper understanding of these limitations is important to prevent abuse of presidential power in elections.
3. **Comparison of Legal Systems:** Of the three countries used as a comparison, the general election systems carried out by countries that implement a presidential system, namely the Philippines and Korea, are almost the same. Except for Malaysia, because its form of government is a parliamentary constitutional monarchy. In this system, executive power is vested in the prime minister, who is the head of government and heads the cabinet. The Prime Minister is elected from members of Parliament who are members of the legislature elected by the people in general elections. Malaysia's head of state is the Yang di-Pertuan Agong (king), who is a constitutional monarch with a ceremonial role.

Thus, a deep understanding of constitutional law and comparative law is an important foundation in maintaining integrity and fairness in the 2024 presidential election. By implementing the recommendations and steps outlined in this article, it is hoped that the presidential election process can take place more efficiently, transparent and democratic.

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