

Constitutional Implications of Abolishing the Presidential Threshold on Democracy and the Electoral System in Indonesia

Hedwig Adianto Mau

Universitas Jayabaya, Jl. Pulomas Selatan Kav. No.234, Jakarta, Indonesia
hedwig.adianto.mau@gmail.com

ABSTRACT

The Constitutional Court's Decision No. 62/PUU-XXII/2024, which nullified the application of the presidential threshold in Indonesia's presidential and vice-presidential elections, represents a transformative development in the country's electoral framework. This research investigates the legal and political ramifications of the ruling, particularly its impact on democratic practices and the structure of the electoral system in Indonesia. Employing a normative juridical approach, the study explores the constitutional justification for eliminating the threshold, assesses its effects on political inclusiveness, and examines its implications for governmental stability. The results suggest that eliminating the presidential threshold may strengthen democratic processes by enabling broader candidate participation and encouraging a more competitive political environment. Nevertheless, the absence of such thresholds could also lead to heightened political fragmentation, potentially resulting in a more divided electoral arena. From a regulatory standpoint, this shift demands careful revision of electoral procedures to maintain administrative efficiency and uphold the integrity of election outcomes. This research contributes original insights by being among the first to critically assess the legal reasoning of the Constitutional Court's decision in the context of Indonesia's evolving democratic architecture. It highlights the tension between normative constitutional ideals and practical governance needs, offering a nuanced interpretation that bridges theory and institutional realities. However, the study is limited by its focus on normative and doctrinal analysis without incorporating empirical data from political actors or voter behavior post-ruling. In conclusion, the abolition of the presidential threshold introduces a multifaceted impact on Indonesia's democratic development and electoral integrity, warranting further scholarly inquiry into regulatory frameworks that can harmonize openness with governance efficacy post-ruling.

Putusan Mahkamah Konstitusi Nomor 62/PUU-XXII/2024 yang membatalkan penerapan ambang batas presidensial dalam pemilihan presiden dan wakil presiden di Indonesia, merupakan perkembangan transformatif dalam kerangka pemilu negara ini. Penelitian ini menyelidiki konsekuensi hukum dan politik dari putusan tersebut, khususnya dampaknya terhadap praktik demokrasi dan struktur sistem pemilu di Indonesia. Dengan menggunakan pendekatan yuridis normatif, penelitian ini mengeksplorasi justifikasi konstitusional untuk menghilangkan ambang batas, menilai dampaknya terhadap inklusivitas politik, dan mengkaji implikasinya terhadap stabilitas pemerintahan. Hasilnya menunjukkan bahwa menghilangkan ambang batas presidensial dapat memperkuat proses demokrasi dengan memungkinkan partisipasi kandidat yang lebih luas dan mendorong lingkungan politik yang lebih kompetitif.

Namun demikian, tidak adanya ambang batas tersebut juga dapat menyebabkan peningkatan fragmentasi politik, yang berpotensi menghasilkan arena pemilu yang lebih terpecah. Dari sudut pandang regulasi, pergeseran ini menuntut revisi prosedur pemilu yang cermat untuk menjaga efisiensi administratif dan menegakkan integritas hasil pemilu. Sebagai kesimpulan, penghapusan ambang batas presidensial memberikan dampak yang beragam terhadap perkembangan demokrasi dan integritas elektoral di Indonesia, sehingga memerlukan penelitian lebih lanjut oleh para akademisi mengenai kerangka regulasi yang dapat menyelaraskan keterbukaan dengan efektivitas tata kelola pemerintahan pasca putusan.

Kata Kunci: *Presidential Threshold, Constitutional Court, Election System, Political Reform.*

A. INTRODUCTION

The Constitutional Court's Ruling No. 62/PUU-XXII/2024, which invalidated the presidential nomination threshold outlined in Article 222 of Law No. 7 of 2017 on General Elections, has ignited substantial debate regarding its broader impact on Indonesia's democratic framework and electoral administration (S. Nugroho, 2023). Previously, the regulation mandated that political parties or coalitions must obtain a minimum of 20% of seats in the House of Representatives (DPR) or 25% of the national valid votes in order to nominate presidential and vice-presidential candidates. With this requirement being removed, a range of viewpoints has surfaced, highlighting possible shifts in political dynamics, representation mechanisms, and the stability of governance. While some analysts believe the removal could enhance inclusivity and expand voter choice by allowing more candidates to compete, others caution that it may lead to greater political fragmentation, which could negatively affect the efficiency and coherence of governmental operations (Ambarwati et al., 2020).

To understand the impact of the abolition of the presidential threshold, this study employs a normative juridical approach by analyzing legal regulations related to elections, Constitutional Court Decision No. 62/PUU-XXII/2024, and academic literature concerning the presidential threshold. The study aims to analyze the legal implications of the Constitutional Court's ruling on the elimination of the presidential threshold, examine its effects on democratic dynamics and the electoral system in Indonesia, and provide policy recommendations to ensure a balance between political openness and governmental stability in the post-decision context (Rasfanjani et al., 2023). Academically, this research seeks to contribute to the discourse on constitutional law and the electoral system in Indonesia. Practically, the findings are expected to serve as a reference for the government, election organizers, and policymakers in formulating more inclusive and effective electoral regulations.

The abolition of the presidential threshold is closely related to democratic theory and electoral systems within presidential regimes. According to Sartori in Țucă (2010),

electoral systems that excessively restrict candidate access may hinder democratization by narrowing voter choice. Conversely, Linz in Isnaini (2020) argues that presidential systems with a high number of candidates are prone to political fragmentation, which can undermine governmental effectiveness. Research by Sabrina & Inder (2024) indicates that countries with high nomination thresholds tend to exhibit more stable governance but may also limit political competition. In the Indonesian context, Nugroho et al. (2022) found that the presidential threshold has constrained the emergence of alternative candidates, thereby limiting competition in presidential elections. Therefore, while the abolition of the presidential threshold may create opportunities for a broader range of candidates, it must be accompanied by electoral system reforms to prevent excessive political polarization.

Furthermore, research conducted by Setiawan et al. (2024) and Maksum & Hamid (2024) indicates that the abolition of the presidential threshold may broaden political participation by allowing more candidates to run for office, thereby enhancing political representation and strengthening democratic legitimacy. However, the study also highlights potential risks of increased political fragmentation and challenges in forming a stable governing coalition. Dyah et al. (2023) and also similarly argue that the implementation of the presidential threshold in Indonesia's simultaneous elections has restricted political participation and diminished the quality of democracy. In addition, Cahyono et al. (2023) emphasizes that while the removal of the presidential threshold could promote greater political inclusivity, it also presents challenges in ensuring the quality and credibility of presidential candidates.

On the other hand, research by Nugroho et al. (2022) highlights that in the absence of a nomination threshold, the emergence of numerous presidential candidates may fragment the electorate, prolong the electoral process, and increase both political and administrative costs. These outcomes could negatively affect post-election political stability and the effectiveness of governance. Taking into account these various theoretical perspectives and empirical findings, this study aims to comprehensively evaluate the implications of the presidential threshold's abolition for democracy and the electoral system in Indonesia. It also seeks to offer relevant policy recommendations to optimize the democratization process and maintain political stability (Suparto, 2021).

B. METHOD

This research employs a normative juridical method to examine the consequences of removing the presidential threshold in Indonesia, as stipulated in Constitutional Court Decision No. 62/PUU-XXII/2024. The data were obtained through an extensive literature review, focusing on primary legal sources such as statutory provisions—including Law No. 7 of 2017 on General Elections—and the aforementioned Constitutional Court ruling. Secondary sources, including academic books, peer-reviewed journal articles, and relevant publications, were also analyzed. Furthermore,

tertiary legal references such as legal dictionaries, encyclopedias, and other supporting materials were utilized to deepen the understanding of legal doctrines and terminologies. A document analysis guide served as the main research tool, ensuring that data collection and interpretation were conducted in a structured and consistent manner (Soekanto, 2015).

C. RESULTS AND DISCUSSION

This study utilizes a normative juridical approach to explore the legal dimensions surrounding the annulment of the presidential threshold, as outlined in Constitutional Court Decision No. 62/PUU-XXII/2024. The core of the analysis centers on evaluating constitutional doctrines, relevant legislative frameworks, and the broader legal ramifications of the ruling on Indonesia's electoral architecture and democratic governance.

1. The Legal Framework of the Presidential Threshold in Indonesia

The 1945 Constitution of the Republic of Indonesia serves as the primary foundation for the governance and electoral system in Indonesia. Article 6A, paragraph (2) of the 1945 Constitution states that presidential and vice-presidential candidates are proposed by political parties or coalitions of political parties participating in the election prior to its implementation. There is no explicit provision in the 1945 Constitution that regulates the presidential nomination threshold (Presidential Threshold). However, the presidential threshold is considered an open legal policy, the formulation of which falls under the authority of lawmakers to establish. The presidential threshold provision was first introduced in Law No. 23 of 2003 in conjunction with Law No. 42 of 2008 concerning the Election of the President and Vice President. The presidential threshold is specifically outlined in Article 5, paragraph (4) as follows (UU No. 42, 2008):

“Candidate pairs as mentioned in paragraph (1) can solely be nominated by political parties or alliances thereof that have obtained a minimum of 15% of the seats in the House of Representatives (DPR) or 20% of the total valid votes at the national level in the preceding legislative elections.”

Although the aforementioned law is no longer in effect, in the 2004, 2009, and 2014 general elections, the presidential nomination threshold was determined based on the number of seats in the House of Representatives (DPR) and the national valid votes obtained in the previous legislative election. This was due to the fact that the legislative election was held before the presidential election. However, unlike the provisions in the Election Law, because in April 2019 the presidential and legislative elections were held simultaneously, the threshold applied was still based on the number of seats in the DPR and the national valid votes from the previous legislative

election. In 2019, the presidential threshold provision was regulated in Law No. 7 of 2017 on General Elections, Article 222, as follows:

“Presidential and vice-presidential candidates may be nominated by political parties or coalitions participating in the election, provided they fulfill the criteria of having secured a minimum of 20% of the seats in the House of Representatives (DPR) or received at least 25% of the total valid votes at the national level in the preceding legislative election.”

2. Constitutional Considerations in the Constitutional Court Decision No. 62/PUU-XXII/2024

In Constitutional Court Decision No. 62/PUU-XXII/2024, the Court stated that the provision on the presidential threshold was in conflict with the democratic principles guaranteed in the 1945 Constitution of the Republic of Indonesia, particularly Article 6A, paragraph (2), which affirms that political parties or coalitions of political parties have the right to nominate a presidential and vice-presidential candidate without specifying a certain threshold. The Court also argued that this threshold limited citizens' political rights and narrowed competition in elections. Following the issuance of Constitutional Court Decision No. 62/PUU-XXII/2024, the provision in Article 222 of Law No. 7 of 2017 on General Elections was declared inconsistent with the 1945 Constitution and no longer had binding legal force. This decision was made because the implementation of the presidential threshold was deemed to exceed the boundaries of open legal policy and was found to hinder smaller parties from directly channeling their aspirations in the presidential election, even if they had qualified candidates. Structurally, the nomination threshold rule also reinforced exclusivity and reduced openness in the presidential election process (MK No. 62, 2024).

Moreover, when compared to the presidential systems in countries such as the United States, Brazil, and Mexico, no provision regarding the minimum percentage requirement for nominating presidential and vice-presidential candidates (presidential threshold) exists (MK No. 62, 2024). Furthermore, the Constitutional Court also referred to the discussion records of Article 6A, paragraph (2) of the 1945 Constitution, which state that the right to propose a presidential and vice-presidential candidate is a constitutional right of political parties or coalitions of political parties participating in the election. Therefore, the attempt to simplify political parties by using the results of the previous legislative election to determine the right to nominate was deemed unjust. Considering these aspects, the Constitutional Court concluded that Article 222 of Law No. 7 of 2017 on General Elections not only violated political rights and the principle of popular sovereignty but also violated aspects of morality, rationality, and justice that cannot be tolerated. Therefore, the Constitutional Court had strong and fundamental reasons to revise its stance from previous decisions (MK No. 62, 2024).

3. Juridical Implications on the Electoral System

The annulment of the presidential threshold effectively nullifies the legal authority of Article 222 of Law No. 7 of 2017 concerning General Elections. As a result, the rules governing presidential nominations in future elections will no longer require political parties to achieve a certain percentage of votes or legislative seats, thereby allowing all parties participating in elections to nominate presidential and vice-presidential candidates (Asrullah et al., 2021). The removal of this threshold is expected to significantly increase the number of candidates, potentially enhancing democratic practices by offering voters a broader selection. However, it also raises concerns about intensified political fragmentation, a trend observed in countries like Brazil and the Philippines that do not implement such thresholds. Within a multiparty presidential system, a president elected through a highly fragmented vote share may struggle to establish a stable parliamentary coalition, thereby complicating governance.

Following Constitutional Court Decision No. 62/PUU-XXII/2024, it is crucial for the Court to issue comprehensive guidelines to assist relevant institutions in devising effective mechanisms for the decision's execution. Indonesia may benefit from studying electoral models in nations that do not enforce a presidential threshold, such as the United States, Brazil, and the Philippines. In the United States, although no threshold exists, primary elections serve as a filtering mechanism through which parties nominate their presidential candidates. Similarly, Brazil's absence of a nomination threshold has resulted in numerous candidates contesting elections; to manage this, the country employs a two-round voting system, ensuring that only the top two candidates with the most votes advance to the runoff. Meanwhile, the Philippines allows for unrestricted presidential candidacies, which has sometimes resulted in presidents elected with relatively low vote shares—raising questions about their political legitimacy.

4. The Impact of Constitutional Court Decision No. 62/PUU-XXII/202

The Constitutional Court Decision No. 62/PUU-XXII/2024, which abolished the presidential threshold provision in Article 222 of Law No. 7 of 2017 on General Elections, may have significant impacts on democracy and the electoral system in Indonesia. The following table illustrates these impacts, both before and after the Constitutional Court's decision regarding the presidential nomination threshold:

Table 1. The impact of constitutional court decision No. 62/PUU-XXII/202

Aspect	Before the Constitutional Court Decision	Before the Constitutional Court Decision
Access to Political Parties	Political parties were required to have at least 20% of DPR seats or 25% of the national vote to nominate presidential candidates.	All political parties participating in the election may nominate presidential candidates without such thresholds.

Electoral Competition	The number of presidential candidates was limited, often resulting in only two candidate pairs, reducing voter choice variation.	An increase in the number of presidential candidates provides voters with more options and enhances electoral competition.
Political Representation	Small parties with low electoral gains faced difficulties in nominating presidential candidates, reducing political representation.	Smaller parties have more opportunities to participate in presidential nominations, enhancing political representation.
Societal Polarization	The dominance of two candidate pairs could intensify political polarization in society.	An increase in the number of candidates may reduce polarization by offering more diverse alternatives.
Quality of Democracy	The democratic process tended to be less inclusive and competitive.	The democratic process becomes more inclusive and competitive, thereby improving the quality of democracy in Indonesia.

Source: processed by author, 2025

The Abolition of the Presidential Threshold by the Constitutional Court was based on the consideration that this provision restricted the constitutional rights of political parties and reduced the number of alternatives available to voters, potentially violating the principles of popular sovereignty and fairness in elections. With the removal of this threshold, all political parties participating in the election now have an equal opportunity to propose presidential and vice-presidential candidates, which is expected to increase political participation and diversify the choices available to voters (Khoiriyah, 2023). However, it must be noted that without this threshold, the potential for a greater number of presidential and vice-presidential candidates may rise. This could lead to vote fragmentation and complicate the political consolidation process post-election. Therefore, the Constitutional Court's decision also provides guidelines for lawmakers to engage in constitutional engineering to prevent an excessive number of candidates, while still maintaining the principles of openness and fairness (Amin & Wibowo, 2023).

This shift aligns with Robert Dahl's theory of polyarchy, which emphasizes the importance of inclusive participation and public contestation in democratic systems. Dahl in Wongkar (2021) argued that democratic legitimacy is strengthened when more political actors are allowed to compete, thereby enhancing representativeness and the responsiveness of government to diverse interests. Empirical support for this can be found in the work of Setiawan et al. (2024), who argues that the removal of the threshold can foster political diversity and expand citizen engagement in democratic processes. Similarly, Sabrina & Inder (2024), in their study on Indonesia, highlight that the threshold has historically limited electoral competition by concentrating power in a few dominant parties, effectively narrowing voter choice and weakening democratic pluralism.

These findings align with democratic theory, which emphasizes the importance of broad political participation and fair representation. According to Sartori in Tucă

(2010), electoral systems that restrict candidate access can hinder the democratization process by narrowing the choices available to voters. Moreover, Linz in Isnaini (2020) argued that in a presidential system, the presence of many candidates increases the risk of political fragmentation, which, in turn, can reduce government effectiveness. Therefore, achieving a balance between political openness and government stability is crucial in designing an effective electoral system. Based on these findings, a modification to the theory of political representation within the context of a presidential system can be proposed. The abolition of the presidential threshold demonstrates that openness in nominations can enhance political participation and enrich voter choices. However, to maintain government stability, additional mechanisms, such as constitutional engineering to regulate the number of candidates, are necessary without diminishing the political parties' right to propose candidates (Munir & Latif, 2024). This highlights the importance of adaptive institutional design in maintaining a balance between political inclusiveness and governmental effectiveness.

Based on the results of this study, several recommendations regarding electoral system reform in Indonesia post-abolition of the presidential threshold can be made. To avoid an excessive number of candidates, stricter administrative requirements could be implemented, such as a minimum level of public support or clear political party membership. The streamlining of political parties within the legislative electoral system could be directed toward encouraging the formation of stronger parties and reducing political fragmentation, thereby creating a more stable government. Lastly, given that the elected president may face a more fragmented parliament due to varying political support, reforms are needed to strengthen cooperation between the executive and legislative branches in governance. Such reforms could include enhancing political communication between political parties in parliament and the executive, or establishing political agreements that include commitments to work programs and conflict resolution mechanisms to prevent coalition breakdowns.

D. CONCLUSION

The Constitutional Court's Decision No. 62/PUU-XXII/2024, which abolishes the presidential threshold, marks a significant change in Indonesia's electoral system. From a democratic perspective, the removal of the presidential nomination threshold creates a broader space for political parties and independent candidates to compete in the presidential election. This is in line with the democratic principle that guarantees openness and equal opportunity for all election participants. However, the increased number of candidates also has the potential to cause vote fragmentation and complicate the electoral process. In the context of the electoral system, without a nomination threshold, the presidential election is likely to present more candidates, which could

enhance healthy political competition. On the other hand, higher political fragmentation may pose challenges in forming a government coalition, especially when faced with a more divided parliament due to the multi-party system in Indonesia. Regarding government stability, the abolition of the presidential threshold necessitates further reform to ensure a balance between openness in nominations and the effectiveness of governance. A more flexible political coalition model and a stronger system of checks and balances are crucial to ensuring the sustainability of national policies post-election. Overall, the findings of this study indicate that while the abolition of the presidential threshold brings positive impacts for democratization, adjustments within the political and electoral systems are necessary to prevent these changes from leading to governmental instability.

E. REFERENCES

- Ambarwati, S. D., Saifulloh, M. R., & Aritonang, S. M. S. (2020). Rekonstruksi Sistem Presidential Threshold dalam Sistem Pemilu di Indonesia. *Jurnal Hukum Lex Generalis*, 1(5), 80–95. <https://doi.org/10.56370/jhlg.v1i5.213>
- Amin, A. Y. Al, & Wibowo, A. (2023). Kedudukan Mahkamah Konstitusi di Indonesia dan Penerapan Yurisprudensi dalam Kewenangan Mahkamah Konstitusi. *Jurnal Penelitian Multidisiplin*, 2(1), 119–123. <https://doi.org/10.58705/jpm.v2i1.110>
- Asrullah, A., Bachri, S., & Halim, H. (2021). Presidential Threshold dalam Sistem Presidensial di Indonesia: Perspektif Konstitusi. *Al-Azhar Islamic Law Review*, 3(2), 63–77. <https://doi.org/10.37146/ailrev.v3i2.84>
- Cahyono, A., Iftitah, A., Hidayatullah, A. R., Yulastuti, E., & Susetiyo, W. (2023). Analisis Kritis Terhadap Penerapan Presidential Threshold dalam Pemilihan Umum 2024: Perspektif Hukum Normatif di Indonesia. *Jurnal Supremasi*, 13, 1–14. <https://doi.org/10.35457/SUPREMASI.V13I2.3041>
- Dyah, Y., Hapsari, P., & Saraswati, R. (2023). Dampak Pelaksanaan Presidential Threshold pada Pemilu Serentak terhadap Demokrasi di Indonesia. *Jurnal Pembangunan Hukum Indonesia*, 5(1), 70–84. <https://doi.org/10.14710/JPHI.V5I1.70-84>
- Isnaini, I. (2020). Koalisi Partai Politik Dalam Sistem Pemerintahan Presidensial Indonesia. *CIVICUS: Pendidikan-Penelitian-Pengabdian Pendidikan Pancasila Dan Kewarganegaraan*, 8(1), 93. <https://doi.org/10.31764/civicus.v8i1.1920>
- Khoiriyah, N. K. (2023). Tinjauan Terhadap Kebijakan Presidential Threshold dalam Sistem Pemilu di Indonesia. *Gema Keadilan*, 10(1), 51–61. <https://doi.org/10.14710/gk.2023.20305>
- Maksum, M., & Hamid, A. (2024). The Role Of The Constitutional Court In Testing The Presidential Threshold Law For The 2024 Presidential Election. *Al-Adl : Jurnal Hukum*, 16(1), 214. <https://doi.org/10.31602/al-adl.v16i1.12947>
- MK No. 62. (2024). *Putusan Mahkamah Konstitusi Nomor 62/PUU-XXII/2024 - Paralegal.id*.

- Munir, S., & Latif, M. A. (2024). Questioning The Presidential Threshold In A Presidential System Based On The Protection Of The Constitutional Rights Of Political Parties. *Syiah Kuala Law Journal*, 8(1). <https://doi.org/10.24815/sklj.v8i1.28684>
- Nugroho, R. M., Sudarsono, Istislam, & Safa'at, M. A. (2022). Comparison of Threshold Provisions for Presidential Candidacy in Indonesia and Turkey. *Proceedings of the International Conference on Sustainable Innovation on Humanities, Education, and Social Sciences (ICOSI-HESS 2022)*, 24–31. https://doi.org/10.2991/978-2-494069-65-7_4
- Nugroho, S. (2023). Analisis Pasal 222 Undang-Undang Nomor 7 Tahun 2017 Tentang Pemilu Berkaitan Dengan Presidential Threshold Dalam Sistem Pemilu Di Indonesia. *Maleo Law Journal*, 7(1), 74–87. <https://doi.org/10.56338/mlj.v7i1.3141>
- Rasfanjani, F. A. A., Jumadi, & Arbani, T. S. (2023). Problematika Sistem Presidential Threshold dalam Pemilihan Presiden dan Wakil Presiden dalam Perspektif Sistem Presidensial di Indonesia. *Alauddin Law Development Journal*, 5(1), 24–32. <https://doi.org/10.24252/aldev.v5i1.20297>
- Sabrina, D. F., & Inder, B. (2024). Concentration of power in nomination of presidential candidates in Indonesia. *Asian Journal of Comparative Politics*, 9(3), 375–387. <https://doi.org/10.1177/20578911231199530>
- Setiawan, A. E., Fatmawati, L., & Shulga, I. (2024). Understanding Indonesia's Presidential Threshold: A Study on Political Rights. *Jurnal Mengkaji Indonesia*, 3(1), 82–103. <https://doi.org/10.59066/JMI.V3I1.622>
- Soekanto, S. (2015). *Pengantar Penelitian Hukum*. Depok: Universitas Indonesia.
- Suparto, S. (2021). Pelaksanaan Sistem Pemerintahan Presidensial Dengan Multi Partai Di Indonesia. *SASI*, 27(4), 516. <https://doi.org/10.47268/sasi.v27i4.600>
- Țucă, A. C. (2010). *Sartori Party Effects of Electoral Systems*. Academia.Edu. https://www.academia.edu/19536827/Sartori_Party_Effects_of_Electoral_Systems
- UU No. 42. (2008). *UU No. 42 Tahun 2008*. <https://peraturan.bpk.go.id/Details/37655/uu-no-42-tahun-2008>
- Wongkar, P. F. (2021). Analisis Yuridis Kewenangan Mahkamah Konstitusi Dalam Melakukan Pengujian Undang-Undang Terhadap Undang-Undang Dasar Di Indonesia. *Lex Et Societatis*, 9(1). <https://doi.org/10.35796/les.v9i1.32060>