

LEGAL IMPLICATIONS OF THE UNCONSTITUTIONALITY OF THE PRESIDENTIAL THRESHOLD BY THE CONSTITUTIONAL COURT

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Abstract

The Constitutional Court, through Decision Number 62/PUU-XXII/2024, has invalidated the provision on the minimum percentage threshold for the nomination of presidential and vice-presidential candidates (presidential threshold) as contained in Law Number 7 of 2017 concerning General Elections. The unconstitutionality of the presidential threshold marks a new chapter in the process of electing the president and vice president. This dynamic certainly has legal implications. This study aims to identify and analyze the legal implications of the Constitutional Court's ruling on the unconstitutionality of the presidential threshold. This research is normative research using historical, regulatory, and conceptual approaches. The results of this study are as follows. First, since the implementation of the election of the president and vice president through general elections, the presidential threshold has always been included in the provisions of the law. Only the nominal amount has changed, with the legislative and executive branches agreeing to maintain the presidential threshold. Second, the Constitutional Court's ruling on the unconstitutionality of the presidential threshold has implications for: strengthening the actualization of people's sovereignty, which nullifies the dominance of certain political parties in the presidential and vice-presidential election process; expanding opportunities for the public to exercise their right to vote and be elected in presidential and vice-presidential elections; and the need to amend the general election law in accordance with the constitutional reasoning contained in the judges' considerations in Decision Number 62/PUU-XXII/2024.

Keywords: *Legal Implications, Presidential Threshold, Constitutional Court.*

I. INTRODUCTION

Indirect democracy in modern states is closely related to the party system, the electoral system, and the system of government. Political parties are a means of political participation for the community in developing democratic life to uphold responsible freedom, while elections are a means of realizing the sovereignty of the people to produce representatives and a democratic government based on Pancasila and the

1945 Constitution of the Republic of Indonesia.¹ Democracy and elections are two things that are closely related. Elections are very important to be held as a manifestation of democracy, because elections are a tangible form of the state's efforts to achieve democracy. On this basis, elections must be held properly in accordance with the mandate of the 1945 Constitution.²

The amendment to the 1945 Constitution explicitly mandates that the President and Vice President be elected directly by the people. However, what has become a matter of debate is the mechanism and requirements for presidential and vice presidential candidates, especially the *presidential threshold* requirement stipulated in the Presidential and Vice Presidential Election Law (Pilpres Law). *The presidential threshold* is the minimum level of support from the DPR (House of Representatives), either in the form of the Number of votes (*ballots*) or the Number of *seats* that must be obtained by political parties participating in the election in order to nominate a presidential candidate from that political party or a coalition of political parties.³

The election of the President and Vice President is now regulated and simplified in a new law, namely Law Number 7 of 2017 concerning General Elections, as last amended by Law Number 7 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2022 concerning Amendments to Law Number 7 of 2017 concerning General Elections into Law. Despite this simplification, the content of the regulations still largely adopts Law Number 42 of 2008 concerning Presidential and Vice Presidential Elections, one of the provisions of which is *the Presidential Threshold*. The constitutional design of *the Presidential Threshold* is an additional provision regarding the requirements for the nomination of the President and Vice President in Article 6A paragraph (2) of the 1945 Constitution, which states that "Candidates for President and Vice President shall be proposed by political parties or coalitions of political parties participating in the election before the election is held." It can be understood textually that this article provides an open space for all political parties participating in the election to nominate a president and vice president. This is because political parties are the pillars of democracy and the link between *the state* and *its citizens*. The existence of *the presidential threshold* requirement is also considered by some circles to be a strengthening of the presidential system implemented in Indonesia.⁴

¹ Seto Cahyono, "Efektivitas *Presidential Threshold* dan Penguatan Sistem Presidensial dalam Sistem Multi Partai", *Journal Hukum Kenegaraan*, Vol. 1, No. 1 (2023): 2.

² Jenedjri M. Gaffar, *Politik Hukum Pemilu*, (Jakarta: Konstitusi Press, 2012), pp. 45. As quoted in *Ibid.*, pp. 173.

³ Abdul Majid & Anggun Novita Sari, "Analisis Terhadap *Presidential Threshold* Dalam Kepentingan Oligarki", *Journal Rechten: Riset Hukum dan Hak Asasi Manusia*, Vol. 5, No. 2 (2023): 3.

⁴ Aji Baskoro, "*Presidential Threshold* di Indonesia Dalam Perspektif Masalah Mursalah", *Journal Legislatif*, Vol. 2, No. 2 (June 2019): 43. As quoted in Adjie Hari Setiawan, "*Politik Hukum Presidential Threshold 20% Dalam Undang-Undang Nomor 7 Tahun 2017*", *Japhtn-Han*, Vol. 2, No. 1 (2023): 174.

The application of *the presidential threshold* was first formulated in Law Number 23 of 2003 concerning the Election of the President and Vice President, which is no longer in effect. In the 2019 elections, the *presidential threshold* regulation is contained in Article 22 of Law Number 7 of 2017 concerning General Elections, which states that: "Candidate pairs are proposed by political parties or coalitions of political parties participating in the election that meet the requirement of obtaining at least 20% (twenty percent) of the total seats in the House of Representatives or obtaining 25% (twenty-five percent) of the valid votes nationally in the previous House of Representatives election".⁵

The threshold determined by the legislative body is considered detrimental to the rights of political parties in proposing candidates for President and Vice President. The existence of this threshold forces political parties to form coalitions in order to meet the threshold for candidacy. This results in the public having no alternative choices to the candidates put forward by political parties.⁶ According to LaNyalla Mahmud Mataliti, there are four negative impacts related to the application of *the presidential threshold*. First, it only produces two pairs of candidates (*head to head*), which then has an impact on political division and polarization, which is considered very bad for the progress of the nation. Second, it ignores the nation's potential, even though this country does not lack competent new leaders. Third, it hinders public awareness of the importance of participating in politics, especially during election periods. Fourth, small political parties are insignificant in the face of large political parties or those with strong power when nominating candidate pairs. This will certainly have a negative impact on the opportunities for small political cadres who want to participate in the presidential and vice presidential elections.⁷

To that end, the *presidential threshold* provision has been submitted for *judicial review* to the Constitutional Court several times. However, in its deliberations, the Constitutional Court ruled that *the presidential threshold* is an open legal policy of the legislators.⁸ Therefore, in its ruling, it has not yet granted the petition. However, in 2025, through Case Number 62/PUU-XXII/2024, the Constitutional Court has overturned the provision on the minimum percentage threshold for proposing presidential and vice-presidential candidates (*presidential threshold*) as contained in

⁵ D. F. Sabrina & M. Saad, "Keadilan Dalam Pemilu Berdasarkan Sistem *Presidential Threshold*", *Widya Pranata Hukum: Journal Kajian Dan Penelitian Hukum*, Vol. 3, No. 1 (February 2021): 32.

⁶ *Ibid.*, pp. 36.

⁷ Fauzi, "Ketua DPD: Empat Dampak Negatif '*Presidential Threshold*' UU Pemilu", <https://www.antaranews.com/>, 2021, <https://www.antaranews.com/berita/2256170/ketua-dpd-empat-dampak-negatif-presidential-threshold-uu-pemilu>. As quoted in Ahmad Shirotol, "Polemik *Presidential Threshold* Dalam Pemilu 2019 dan Sebelum Kontestasi Pemilu 2024 di Indonesia," *INNOVATIVE: Journal of Social Science Research*, Vol. 3, No. 3 (2023): 3.

⁸ Putusan Mahkamah Konstitusi Nomor 52/PUU-XX/2022, pp. 74. As quoted in Adjie Hari Setiawan, "Politik Hukum *Presidential Threshold* 20% Dalam Undang-Undang Nomor 7 Tahun 2017," *Op.Cit.*

Law Number 7 of 2017 concerning General Elections. The unconstitutionality of the *presidential threshold* has become a new dimension in the presidential and vice-presidential election process. This condition has become an interesting discourse to see how the legal implications of the unconstitutionality of the *Presidential Threshold* by the Constitutional Court. Based on the above description, there are two issues that the author will discuss. First, what is the dynamic of *presidential threshold* regulations in Indonesian legislation? Second, what are the legal implications of the unconstitutionality of the *presidential threshold* by the Constitutional Court?.

II. RESEARCH METHOD

This research is normative legal research, which analyzes legal norms to understand, interpret, and explain the *presidential threshold* in the dynamics of the general election and its implications after the Constitutional Court's decision. The legal research model used is a comprehensive and analytical study of primary and secondary legal materials. The research approaches used are the *statute approach* and the *conceptual approach*. The data is analyzed qualitatively by describing the data generated from the research in a systematic explanation so that a clear picture of the issues under study can be obtained. The results of the data analysis are concluded deductively.

III. ANALYSIS AND DISCUSSION

A. The Dynamics of Presidential Threshold Regulations in Indonesian Legislation

The presidential threshold has undergone dynamic changes in its implementation in Indonesia. This threshold was first used in the 2004 elections.⁹ The provisions of the *presidential threshold* are formulated in Article 5 paragraphs (3) and (4) of Law Number 23 of 2003 concerning the Election of the President and Vice President, which contains requirements for political parties or coalitions of political parties to be able to nominate candidates for President and Vice President after meeting the requirement of obtaining at least-15% (fifteen percent) of the total seats in the House of Representatives or 20% (twenty percent) of the valid votes nationally in the House of Representatives elections. Although there is an assumption that the *presidential threshold* is an attempt to perpetuate the power of large parties,¹⁰ the presidential threshold was still applied in the next election, namely the 2009 election. Through the provisions of Article 9 of Law Number 42 of 2008 concerning the Election of the President and Vice President, the presidential threshold is constructed as a requirement for political parties or

⁹ Aji Baskoro, "Presidential Threshold di Indonesia Dalam Perspektif Masalah Mursalah", *Journal Legislatif*, Vol. 2, No. 2 (2019): 39. As quoted in Arifudin & Hamdan Zoelva, "Pembaharuan Sistem Presidential Threshold di Indonesia Berdasarkan Konsep Prismatika Hukum", *Journal Hukum Progresif*, Vol. 10, No. 2 (October 2022): 130.

¹⁰ Ridho Al-Hamdi, Tanto Lailam, and Sakir Sakir, "The Presidential Threshold Design in Indonesia's Electoral System: In Search of 'Win-Win Situation' Among Unfinished Debates," in *Proceedings of the International Conference on Sustainable Innovation Track Humanities Education and Social Sciences (ICSIHES 2021)*, (Atlantis Press, 2021), pp. 322. As quoted in Arifudin & Hamdan Zoelva, "Pembaharuan Sistem Presidential Threshold di Indonesia Berdasarkan Konsep Prismatika Hukum", *Journal Hukum Progresif*, Vol. 10, No. 2 (October 2022): 130.

coalitions of political parties participating in the election that propose a candidate pair to meet the requirement of obtaining at least 20% (twenty percent) of the total seats in the House of Representatives or obtaining 25% (twenty-five percent) of the valid votes nationally in the House of Representatives election. This presidential threshold construction was also used as a requirement for political parties or coalitions of political parties that nominated candidates in the 2009 and 2014 elections.¹¹ In the 2014 elections, the election law did not undergo any changes, so the applicable rules remained the same. The threshold for presidential candidates was 20% of the seats in the House of Representatives or 25% of the national vote.

Subsequently, in the 2019 elections, the DPR and the government agreed to revise the election law. However, the article regulating *the presidential threshold* did not undergo any changes in content.¹² In the 2019 elections, *the presidential threshold* no longer refers to Law Number 42 of 2008 concerning the Election of the President and Vice President, but refers to Law Number 7 of 2017 concerning General Elections, which contains regulations on the election of the President and Vice President and the election of legislative members.¹³ The enactment of this law unified the regulations on the election of the president and vice president; the organizers of the general election; and the election of members of the DPR, DPD, and DPRD.

In its development, general elections based on Constitutional Court Decision Number 14/PUU/XI/2013 must be held simultaneously. The Constitutional Court judges decided that the 2019 general elections would be held simultaneously, resulting in the enactment of Law Number 7 of 2017 concerning General Elections. This is because holding legislative elections and presidential and vice presidential elections separately is considered less conducive to the implementation of a more effective and efficient democracy. Other weaknesses are evident in terms of time, the large costs involved, and the energy that must be expended by election organizers in order to hold democratic elections at different times.¹⁴ After the Constitutional Court Decision Number 14/PUU/XI/2013 concerning the Review of Law Number 42 of 2008 concerning the Election of the President and Vice President of the Republic of Indonesia, the concept of simultaneous elections to elect legislative members and the

¹¹ Arifudin & Hamdan Zoelva, "Pembaharuan Sistem *Presidential Threshold* di Indonesia Berdasarkan Konsep Prisma Hukum", *Journal Hukum Progresif*, Vol. 10, No. 2 (October 2022): 130-131.

¹² Alex Cahyono, et.al., "Analisis Kritis Terhadap Penerapan *Presidential Threshold* dalam Pemilihan Umum 2024: Perspektif Hukum Normatif di Indonesia", *Journal Supremasi*, Vol. 13, No. 2 (2023): 7.

¹³ Alfa Fitria & Wicipto Setiadi, "Presidential Threshold Dalam Pemilihan Umum Serentak: Kemunduran Demokrasi Konstitusional", *Journal Legislasi Indonesia*, Vol. 19, No 1, (2022): 69. As quoted in Arifudin & Hamdan Zoelva, *Op.Cit.*

¹⁴ Muhammad Aris Mufti, et al., "Model Pengaturan *Presidential Threshold* Dalam Pemilihan Umum Serentak Ditinjau Dari Perspektif Demokrasi", *Journal Diskresi*, Vol. 2, No. 2 (December 2023): 143.

president and vice president was born. However, it still refers to the provisions of the presidential and vice presidential threshold (*Presidential Threshold*).¹⁵ This can be seen in Article 222 of Law Number 7 of 2017 concerning General Elections, which states: "Candidate pairs are proposed by political parties or coalitions of political parties participating in the elections that meet the requirement of obtaining at least 20% (twenty percent) of the total seats in the House of Representatives or obtaining 25% (twenty-five percent) of the valid votes nationally in the previous House of Representatives elections."

However, Article 222 of Law Number 7 of 2017 concerning General Elections has sparked debate due to the threshold rule stipulating that presidential and vice-presidential candidates nominated by political organizations or groups of political organizations that meet the requirements must obtain at least 20% of the total seats in the House of Representatives or 25% of the valid votes at the national level in the House of Representatives elections. Because legislative support for the president is necessary to ensure the president's stability in running the government. Experts explain that this decision is not in line with the *Presidential Threshold* mechanism. It is considered that the results of previous elections cannot be used as a basis because they are deemed inappropriate for the presidential candidates in the 2019 election. The following table shows the history and content of the *presidential threshold* system.¹⁶

Table 1. Dynamics of the *presidential threshold* regulation

Election Year	Legal Basis	<i>Presidential Threshold</i> Threshold	Implementation System
2004	Law No. 23 of 2003	Political parties or coalitions of political parties with 15% of seats in the House of Representatives or 20% of the national valid votes.	Legislative elections (Pileg) are held several months before presidential elections (pilpres).
2009	Law No. 42 of 2008	Political parties or coalitions of political parties with 25% of seats in the House of Representatives or 20% of valid national votes.	Legislative elections are held several months before presidential elections.
2014	Law No. 42 of 2008	Political parties or coalitions of political parties with 25% of seats in the House of Representatives or 20% of valid national votes.	Legislative elections are still held several months before the presidential election.

¹⁵ *Ibid.*

¹⁶ Nurhanifah S. Gintulangi, "Analisis Dampak Penerapan Sistem *Presidential Threshold* Terhadap Partai Politik di Indonesia", *J-CEKI: Journal Cendekia Ilmiah*, Vol. 4, No. 1 (December 2024): 930.

2019	Law No. 7 of 2017	Political parties or coalitions of political parties with 20% of seats in the House of Representatives or 25% of valid votes nationally in the previous legislative elections.	The presidential and legislative elections are held simultaneously for the first time.
2024	Law No. 7 of 2017	Political parties or coalitions of political parties with 20% of seats in the House of Representatives or 25% of valid votes nationally in the previous legislative elections.	Presidential and legislative elections are again held simultaneously.

The Presidential Threshold has been submitted several times by practitioners for a judicial review to the Constitutional Court. The judicial review submitted through the Bulan Bintang Party was rejected by the Constitutional Court as stated in decision Number 52/PUUXX/2022. The Constitutional Court firmly ruled that the provision of the presidential threshold is constitutional and considered a constitutional matter, as well as an open legal policy from the drafters of the law.¹⁷ However, the implementation of *the presidential threshold* also has a Number of negative impacts on Indonesian democracy. One of them is the restriction on small parties to participate in the presidential election.

Parties that do not meet the threshold for seats in the House of Representatives or valid votes are unable to nominate presidential candidates, which in turn reduces political representation for certain segments of society. This can reduce the diversity of political choices and reduce opportunities for voters to elect candidates who truly reflect their aspirations. Another impact is increased political polarization, as *the presidential threshold* tends to lead to two large camps competing fiercely, while small parties feel marginalized. This pattern can exacerbate social and political tensions, as there are few alternatives available for voters who support small parties. Therefore, in 2024, *the presidential threshold* was abolished through a *judicial review* petition related to the abolition of *the presidential threshold* by a some students from UIN Sunan Kalijaga. The Constitutional Court, in Decision 62/PUU-XXII/2024, stated that the *presidential threshold* rule was unconstitutional because it was deemed to limit the rights of small political parties and independent candidates to participate in general elections. This decision emphasized that Indonesia's democratic system must provide equal opportunities for all parties to compete in general elections, without discrimination.

¹⁷ Rio Putra Simanjuntak & Tri Susilowati, "Analisis Kebijakan *Presidential Threshold* Dalam Pemilihan Umum 2024", *Perkara: Journal Ilmu Hukum dan Politik*, Vol. 1, No. 4 (December 2023): 220.

Thus, the *presidential threshold* provision has undergone dynamics through several changes in the regulatory basis, which only resulted in shifts in the minimum percentage. Significantly, the *presidential threshold* provision through Constitutional Court Decision Number 62/PUU-XXII/2024 no longer has binding legal force because it has been finally declared unconstitutional. This has become a new dimension that affects the dynamics of state administration, particularly in determining presidential and vice presidential candidates.

B. Legal Implications of the Unconstitutionality of the Presidential Threshold by the Constitutional Court

The Constitution grants the Constitutional Court the authority to act as *the guardian of the constitution* in relation to its four powers and one obligation.¹⁸ The Constitution, as the highest law, regulates the administration of the state based on democratic principles, and one of the functions of the Constitution is to protect the human rights guaranteed in the Constitution, thereby becoming the constitutional rights of citizens. Therefore, the Constitutional Court also plays a role as *the guardian of democracy, the protector of citizens' constitutional rights, and the protector of human rights*.¹⁹ The Constitutional Court is part of the judicial branch, whose normative duties and powers are:²⁰ to review laws against the Constitution; to decide disputes between state institutions whose authority is granted by the Constitution; to decide on the dissolution of political parties; and to decide disputes over the results of general elections.

The mechanism of *constitutional adjudication* in Indonesia's constitutional system is intended to ensure that the 1945 Constitution is truly implemented or upheld in the conduct of state affairs.²¹ The enforcement of constitutional law as reflected in the authority of the Constitutional Court as part of the *separation of powers* and *checks and balances* system is only effective if the decisions of the Constitutional Court are accepted and implemented by other branches of state power, especially the legislature.²² This is because if the Constitutional Court declares a legal norm in a law to be unconstitutional, it requires follow-up by the House of Representatives and the President to formulate a new legal norm that is in accordance with the constitution based on the decision of the Constitutional Court.

¹⁸ Novendri M. Nggilu, *Hukum Dan Teori Konstitusi* (Perubahan Konstitusi Yang Partisipatif dan Populis), (Yogyakarta: UII Press, 2014), pp. 147-148. As quoted in Ahmad & Novendri M. Nggilu, "Denyut Nadi Amandemen Kelima UUD 1945 melalui Pelibatan Mahkamah Konstitusi sebagai Prinsip *the Guardian of the Constitution*", *Journal Konstitusi*, Vol. 16, No. 4 (December 2019): 787.

¹⁹ Novendri M. Nggilu, *Op.Cit.*, pp. 148. As quoted in *Ibid.*

²⁰ Abdul Rasyid Thalib, *Wewenang Mahkamah Konstitusi dan Implikasinya dalam Sistem Ketatanegaraan Republik Indonesia*, (Bandung: Penerbit PT Citra Aditya Bakti, 2006), pp. 12.

²¹ Ahmad & Novendri M. Nggilu, *Op.Cit.*, pp. 789.

²² Maruarar Siahaan, "Peran Mahkamah Konstitusi Dalam Penegakan Hukum Konstitusi", *Journal Hukum*, Vol. 16, No. 3 (July 2009): 377.

One of the roles of the Constitutional Court in safeguarding democracy based on the constitution is Constitutional Court Decision Number 62/PUU-XXII/2024, which has invalidated the provision on the minimum percentage threshold for proposing presidential and vice-presidential candidates (*presidential threshold*) as contained in Law Number 7 of 2017 concerning General Elections. This Constitutional Court decision signifies that *the Presidential Threshold* is no longer in line with constitutional values.

Prior to Constitutional Court Decision Number 62/PUU-XXII/2024, the Constitutional Court viewed *the presidential threshold* as *an open legal policy* of the lawmaker,²³ and therefore did not grant the petitioner's request. However, in its development, *the presidential threshold* is considered no longer relevant, especially when compared to the simultaneous general elections. According to Ratna Sholihah, *the presidential threshold* is no longer relevant because the results of elections under the simultaneous system can be seen as relevant between elected legislators and the elected president in terms of strengthening the presidential system. The president, as head of state, can perform his functions in the presidential system in a systematic and correlative manner with significant integration in cooperation with the House of Representatives.²⁴

In line with this, according to Adjie Hari Setiawan, the basic purpose of *the presidential threshold* is to create a simple party system and to seek majority support in parliament. However, with the simultaneous elections, this objective will automatically be achieved, so there is no longer any need for *a presidential threshold*.²⁵ In fact, some argue that *the presidential threshold* is an *anomaly* in the presidential system.²⁶ For example, if a president is elected from a small party, he or she will naturally seek other political parties to form a coalition to strengthen the president's position, so the absence of *a presidential threshold* is not something that needs to be regulated to ensure the effective running of the government.²⁷ This means that the unconstitutional implications of *the presidential threshold* will encourage the implementation of a more compatible presidential system.

²³ Putusan Mahkamah Konstitusi Nomor 52/PUU-XX/2022, pp. 74 As quoted in Adjie Hari Setiawan, *Op.Cit.*, p. 182.

²⁴ Ratna Sholihah, "Peluang dan Tantangan Pemilu Serentak 2019 Dalam Perspektif Politik", *Journal Ilmial Pemerintahan*, Vol. 3, No. 1 (2018): 81. As quoted in Adjie Hari Setiawan, *Op.Cit.*, p. 182-183.

²⁵ Adjie Hari Setiawan, *Op.Cit.*, p. 183.

²⁶ Abdul Majid & Anggun Novita Sari, "Analisis Terhadap *Presidential Threshold* Dalam Kepentingan Oligarki", *Journal Rechten: Riset Hukum dan Hak Asasi Manusia*, Vol. 5, No. 2 (2023): 1.

²⁷ *Ibid.*

The Constitutional Court's ruling on *the presidential threshold* plays a crucial role in regulating the dynamics of presidential and vice-presidential elections in Indonesia. The Constitutional Court, as the institution tasked with safeguarding the constitutionality of the legal system in Indonesia, has Numbered decisions that have influenced the continuity of the electoral system and democracy in Indonesia. Constitutional Court Decision Number 62/PUU-XXII/2024 is a decision that will transform the process of electing the president and vice president in the future.

The Constitutional Court's decision has become the subject of debate regarding *the presidential threshold*. In this case, the Constitutional Court acts as the guardian of justice in the electoral system, including in the regulation of *the presidential threshold*.²⁸ The following table summarizes the dynamics of the Constitutional Court's decisions related to the *Presidential Threshold* provisions and the implementation of elections in Indonesia:²⁹

Table 2. Summary of the Dynamics of Constitutional Court Rulings
on the *Presidential Threshold*

Decision Number	Provision Under Review	Reduction of the Constitutional Court's Opinion	Implications
51-52-59/PUU-VI/2008	Article 3 paragraph (5) and Article 9 of Law No. 42 of 2008 concerning the Election of the President and Vice President	<ol style="list-style-type: none"> 1. The provisions of Article 3 paragraph (5) are constitutional based on <i>desuetude</i> because the presidential election is held after the elections for the DPR, DPRD, and DPD for the formation of the MPR. 2. <i>The Presidential Threshold</i> in Article 9 aims to strengthen the presidential system to be effective with the support of the DPR. <i>The threshold</i> is considered an <i>open legal policy</i> regulated by Article 6A paragraph (5) and Article 22E of the 1945 Constitution. 	The 2009 and 2014 presidential elections were still held after the legislative elections (not simultaneously).
14/PUU-XI/2013	Article 3 paragraph (5) of Law No. 42 of 2008 concerning the Election of the	<ol style="list-style-type: none"> 1. Article 22E paragraph (2) of the 1945 Constitution stipulates that elections to select the President, DPR, DPD, and DPRD must be held simultaneously. 	Simultaneous elections are mandatory starting in 2019, covering the presidential and legislative elections on the same day.

²⁸ Rahmatul Ainia & Rizka Aulia, "Analisis Permasalahan Presidential Threshold dalam Sistem Pemilihan Presiden di Indonesia: Perspektif Putusan Mahkamah Konstitusi", *SIMPUL: Journal Ilmu Politik dan Hukum*, Vol. 1, No. 3 (September 2025): 70.

²⁹ Nurhanifah S. Gintulangi, "Analisis Dampak Penerapan Sistem *Presidential Threshold* Terhadap Partai Politik di Indonesia", *J-CEKI: Journal Cendekia Ilmiah*, Vol. 4, No. 1 (December 2024): 931-932.

	President and Vice President	<ol style="list-style-type: none"> 2. Simultaneous elections are intended to improve cost and time efficiency and reduce horizontal conflicts in society. 3. The non-simultaneous elections held in 2009 and 2014 were still declared valid and constitutional. 	
53/PUU-XV/2017	Article 222 of Law No. 7 of 2017 on General Elections	<ol style="list-style-type: none"> 1. <i>The Presidential Threshold</i> helps provide an overview of the Number of members of the House of Representatives, supporters, and the cabinet of the presidential candidate. 2. This policy aims to simplify the Number of parties to strengthen the presidential system. 3. Constitutional Court Decision No. 51-52-59/PUU-VI/2008 remains relevant because <i>the Presidential Threshold as an open legal policy</i> is not directly related to simultaneous elections, but supports an effective system of government. 	Article 222 of Law No. 7 of 2017 was declared constitutional. The 2019 and 2024 elections were held simultaneously with <i>a Presidential Threshold</i> of 20% of seats in the House of Representatives, or 25% of valid national votes.

Furthermore, on January 2, 2025, through Decision Number 62/PUU-XXII/2024, the Constitutional Court Numberd a decision to abolish *the Presidential Threshold*. Observing the dynamics of the Constitutional Court's decisions on the *presidential threshold* provision, it appears that the Constitutional Court may differ in its considerations from previous decisions on the same constitutional topic.

Ruling Number 62/PUU-XXII/2024 has opened up new possibilities for change in Indonesia's political system. This decision is seen as a step towards a more inclusive democracy, in which more political parties, including those with limited support bases, can participate in the presidential election process.³⁰ Although this decision has been welcomed by various groups that support democratization, it has also raised various questions about its long-term impact on political stability and the quality of leadership produced.³¹ Technically, the removal of *the presidential threshold* means that

³⁰ Journal Konsdem. (nd), "Mekanisme Penetapan Ambang Batas (*Threshold*) Terhadap Stabilitas Sistem Presidensial dan Sistem multipartai Sederhana di Indonesia", Diakses dari <https://scholarhub.ui.ac.id/Journalkonsdem/vol2/iss1/2/4>. As quoted in Eko Supriatno, "Pengaruh Penghapusan *Presidential Threshold* Terhadap Sistem Politik Indonesia", *KALODRAN: Journal Ilmu Komunikasi*, Vol. 3, No. 1 (October 2024): 2.

³¹ VIVA.co.id. (nd), "*Presidential Threshold* Selama Ini Mengeksklusi Kandidat Potensial, Menurut Pakar Hukum", Diakses dari <https://www.viva.co.id/berita/politik/1786777-presidential-threshold-selama-ini-mengeksklusi-kandidat-potensial-menurut-pakar-hukum>. As quoted in Eko Supriatno, *Ibid.*

there are no longer minimum requirements for votes or seats for parties or coalitions to nominate candidates. This condition will have an impact on expanding the political rights of parties to compete, while encouraging increased political participation by the public through more diverse representation. From a constitutional democracy perspective, this ruling affirms the principles of popular sovereignty and political equality, in where every citizen and political entity has the same right to participate in the general election process.³² This constitutional court ruling strengthens the quality of substantive democracy in Indonesia.³³

From a legal perspective, the elimination of *the presidential threshold* is a progressive step in line with constitutional principles, because with the elimination of *the presidential threshold*, all political parties, whether large or small or new, have the same right to nominate presidential and vice presidential candidates. This is in line with Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which guarantees the right of every citizen to have equal opportunities in government.³⁴ The dominance of certain political parties in the presidential and vice presidential elections will be reduced. The public will have a more diverse choice of presidential and vice-presidential candidates. On the other hand, this shows that there is a strengthening of the actualization of people's sovereignty by reducing the dominance of political parties through the presidential and vice-presidential nomination threshold.

This Constitutional Court decision also strengthens the principle of *checks and balances* by limiting legislative intervention in the process of selecting presidential and vice presidential candidates. However, the implementation of this decision requires adjustments to related laws and regulations, including revisions to the General Election Law to ensure legal consistency and certainty.³⁵ Furthermore, there needs to be an update to the election regulations through amendments or replacements to the Election Law. The legislative body and the president should be able to follow up on the Constitutional Court's ruling by drafting a legal framework as the basis for the future presidential election system. The amendment to the law needs to include clearer mechanisms regarding presidential candidacy, requirements for presidential candidates, as well as regulations on campaign financing and supervision of the candidates. This is to ensure that the policy of removing *the presidential threshold* not

³² Muhammad Ashari, et.al, "Implikasi Yuridis Putusan Mahkamah Konstitusi Nomor 62/PUU-XXII/2024 terhadap Mekanisme Pencalonan Presiden dan Wakil Presiden di Indonesia", *Journal Mahasiswa Humanis*, Vol. 5, No. 3 (September 2025):1442.

³³ Thalia Christine M.P.D. Matutu & Ghina Salsabila Aven, "Analisis Yuridis tentang Penghapusan Presidential Threshold dan Dampaknya terhadap Sistem Pemilihan Presiden Republik Indonesia", *Rewang Rencang: Journal Hukum Lex Generalis*, Vol.4, No.8, (2024).

³⁴ Pasal 28D Ayat (1) UUD Tahun 1945.

³⁵ Bagir Manan, *Sistem Pemilu dan Demokrasi di Indonesia*, (Bandung: Alumni,2019), pp. 89. As quoted in Alfi Rahmayanti & Ikhsan Fatah Yasin, "Implikasi Putusan MK No 62 Tahun 2024 Terkait Penghapusan *Presidential Threshold*", *TARUNALAW: Journal of Law and Syariah*, Vol. 3, No. 2 (July 2025): 181.

only provides greater opportunities for small political parties, but also maintains the integrity and quality of democracy.³⁶

Overall, the legal implications of Constitutional Court Decision Number 62/PUU-XXII/2024 have a positive impact in expanding democratic space and strengthening political plurality in Indonesia. This decision not only removes structural barriers in the mechanism for nominating presidents and vice presidents, but also opens up opportunities for a more representative electoral process that is in the interests of the people. However, the success of the implementation of this decision is highly dependent on the readiness of regulations, election organizers, and the commitment of all parties in maintaining the integrity and stability of Indonesia's democratic system.³⁷ Therefore, electoral system reform after the removal of the *presidential threshold* must be carried out comprehensively to maintain a balance between increased political participation and national government stability.³⁸

Thus, Constitutional Court Decision Number 62/PUU-XXII/2024 has implications for efforts to strengthen the actualization of people's sovereignty by nullifying the dominance of certain political parties in the presidential and vice-presidential election process, expanding opportunities for the public to exercise their right to vote and be elected in presidential and vice-presidential elections, as well as the need to amend the general election law in accordance with the constitutional reasoning contained in the judges' considerations in Decision Number 62/PUU-XXII/2024. The existence of this unconstitutional *presidential threshold* decision has an impact on the Indonesian constitutional system.

IV. CONCLUSION

Based on the analysis and discussion described above, it can be concluded that: first, the dynamics of the *presidential threshold* regulation are limited to the threshold percentage, and changes to the *presidential threshold* legal norm are regulated in Law Number 23 of 2003, Law Number 42 of 2008, and Law Number 7 of 2017. Second, the existence of a *presidential threshold* paradox in simultaneous elections has prompted another *judicial review* petition to the Constitutional Court. Constitutional Court Decision Number 62/PUU-XXII/2024, which declared the *presidential threshold* unconstitutional, has implications for the presidential and vice-presidential election system, including strengthening the sovereignty of the people by nullifying the

³⁶ Eko Supriatno, *Op.Cit.*, pp. 6-7.

³⁷ Mahkamah Konstitusi Republik Indonesia, *Putusan Nomor 62/PUU-XXII/2024*, (Jakarta: MKRI, 2024). As quoted in Muhammad Ashari, et.al., "Implikasi Yuridis Putusan Mahkamah Konstitusi Nomor 62/PUU-XXII/2024 terhadap Mekanisme Pencalonan Presiden dan Wakil Presiden di Indonesia", *Journal Mahasiswa Humanis*, Vol. 5, No. 3 (September 2025): 1443.

³⁸ Habib Anwar & Mohammad Saleh, "Akibat Hukum Penghapusan *Presidential Threshold* dalam Pemilihan Berdasarkan Putusan Mahkamah Konstitusi Nomor 62/PUU-XXII/2024", *Aurelia: Journal Penelitian dan Pengabdian Masyarakat Indonesia*, Vol. 4, No. 2 (July 2025): 275.

legitimacy of the dominance of large political parties in determining presidential and vice-presidential candidates. This ruling is an effort of constitutionalism that *the presidential threshold* is an instrument in limiting the political rights of the people to vote or be elected in the presidential and vice presidential elections. Based on Constitutional Court Decision Number 62/PUU-XXII/2024, it is necessary for the DPR and the President to make executory efforts to redraw the election system in accordance with constitutional values.

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