

**CONSTITUTIONAL ENGINEERING IN THE PRESIDENTIAL AND
VICE PRESIDENTIAL ELECTIONS (ANALYSIS OF THE
CONSTITUTIONAL COURT'S DECISION NO. 62/PUU-XXII/2024
CONCERNING THE ELIMINATION OF THE PRESIDENTIAL
THRESHOLD)**

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ABSTRACT

This study aims to analyze constitutional engineering in the presidential and vice presidential election systems in Indonesia through a study of the Constitutional Court Decision No. 62/PUU-XXII/2024 which abolished the presidential threshold provisions. Over the past two decades, the threshold for presidential candidacy of 20% of the House of Representatives seats or 25% of the national valid vote has sparked debate because it is considered to limit the constitutional rights of political parties and narrow the people's choice in elections. Through the decision, the Court emphasized that Article 222 of Law Number 7 of 2017 is contrary to Article 6A paragraph (2) of the 1945 Constitution, because the constitution does not stipulate a certain percentage of support requirements for presidential candidacy.

This research uses normative legal methods with legislative, case, and conceptual approaches, and is supported by an analysis of constitutional engineering doctrines (Giovanni Sartori), democratic theory (Robert Dahl), and the principle of proportionality. Data were collected through literature studies on primary legal materials (1945 Constitution, Law No. 7/2017, Constitutional Court Decision) and secondary (academic literature, journals, and expert opinions).

The results of the study show that before the Constitutional Court Decision No. 62/PUU-XXII/2024, the presidential threshold system formed an elitist political configuration and closed the space for inclusive competition. Through teleological and proportional interpretation, the Court returns the presidential nomination mechanism to the essence of people's sovereignty by opening access for all political parties participating in the election. This decision is a tangible form of judicial constitutional engineering, where the Constitutional Court not only upholds norms, but also redesigns the democratic structure to be more

representative, equitable, and in line with the principles of Indonesia's constitutional democracy.

Keywords: Constitutional Engineering, Constitutional Court, Presidential Threshold, Constitutional Democracy, Constitutional Court Decision No. 62/PUU-XXII/2024

A. Introduction

General elections are an important component of constitutional democracy, because they facilitate the realization of people's sovereignty. The 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) states in Article 1 paragraph (2) that "Sovereignty is in the hands of the people and is carried out according to the Constitution." The direct election of the President and Vice President by the people, as mandated by Article 6A of the 1945 Constitution, is a direct embodiment of this principle¹.

The presidential election is not just a formal procedure, but a democratic instrument that guarantees the election of a leader who is widely recognized by the public. General elections are a *sine qua non* for modern democracy, because they are a legitimate mechanism to convey the sovereignty of the people to elected representatives, as according to Miriam Budiardjo (1998) (in Nugroho, 2023).² As a result, the character of democracy will be greatly influenced by the quality of the election design.

Indonesia has implemented a presidential threshold system since the enactment of Law Number 7 of 2017 concerning General Elections. Article 222 of the Election Law mandates that political parties or combinations of political parties must be able to propose a pair of presidential and vice presidential candidates for at least 20% of the seats in the House of Representatives (DPR) or 25% of the national vote. This rule aims to prevent political fragmentation, simplify the number of candidates, and strengthen the presidential system³.

However, this threshold actually causes distortions, as evidenced by the last three elections. Data from the General Election Commission (KPU) shows that only two pairs of

¹ Muhammad Helmi Fahrozi Taufiqurrohman Syahuri, 2020, "The Constitutionality of Article 222 of Law Number 7 of 2017 concerning Elections (Presidential Threshold)," *Al-Wasath: Journal of Legal Science*, Vol. 1 No. 1, p. 28.

² Satrio Nugroho, 2023, "About Elections Related to the Presidential Threshold in the Electoral System in Indonesia," *Maleo Law Journal*, Vol. 7 No. 1, pp. 74–87.

³ Taufiqurrohman Syahuri, 2020, "The Constitutionality of Article 222 of Law Number 7 of 2017 concerning Elections (Presidential Threshold)," *Al-Wasath: Journal of Legal Sciences*, Vol. 1 No. 1, p. 28.

candidates competed in the 2009, 2014, and 2019 presidential elections. As a result, contestation becomes limited and tends to cause severe polarization in society⁴.

Table 1.1 Number of Presidential and Vice Presidential Candidate Pairs

Election Year	Number of Candidate Pairs	Dominant Parties/Coalitions
2009	3	Democratic Coalition, PDIP, Golkar
2014	2	Red and White Coalition vs Great Indonesia Coalition
2019	2	Advanced Indonesia Coalition vs Fair Prosperity Coalition

Source: KPU RI, 2020

The implementation of the presidential nomination threshold has significant implications, as evidenced by Table 1, which provides a comprehensive breakdown of the number of pairs of presidential and vice presidential candidates in the last three elections. This implementation has limited the number of candidates who have the right to compete. Although the threshold has not been strictly enforced, there are still three pairs of candidates competing in the 2009 election. Nevertheless, only two pairs of candidates have emerged since the 2014 and 2019 elections, with one large group competing against each other. This situation illustrates that the presidential threshold requirement of 20% of the House of Representatives seats or 25% of the national valid vote has forced smaller parties to join large coalitions in order to put forward candidates, thereby reducing the diversity of alternative options available to voters.

The limited number of candidate pairs has serious implications. First, the people's choices are not diverse, so the quality of substantive democracy is reduced. Second, there is prolonged political polarization because society is divided into only two major poles. Third, small parties practically do not have the opportunity to propose candidates, so their constitutional rights are reduced. In fact, Article 6A paragraph (2) of the 1945 Constitution only states that candidate pairs are proposed by political parties or a combination of political parties participating in the election, without mentioning a certain percentage requirement⁵.

⁴ Hedwig Adianto Mau, 2024, Indonesian Constitutional Law: Theory and Application, Vol. 17, Banyumas: Amerta Media, p. 45.

⁵ Ernesta Arita Ari et al., 2025, "Presidential Threshold From a Constitutional Law Perspective," Journal of Social Studies, Vol. 8 No. 7, pp. 75–82.

Responding to the debate, the Constitutional Court in Decision Number 62/PUU-XXII/2024 finally stated that the provisions of the threshold for presidential candidacy are contrary to the 1945 Constitution and no longer have binding legal force. This decision is an important milestone because it substantively removes the presidential threshold, thus opening up wider opportunities for political parties to propose a pair of presidential and vice presidential candidates⁶.

This change reflects a *constitutional engineering*. According to Giovanni Sartori (1994), constitutional engineering is an effort to redesign political institutions to adapt to the needs of society, in order to create a more representative and stable system. In the Indonesian context, this Constitutional Court decision is a very fundamental shift in the design of elections because it changes the balance between political representation, people's sovereignty, and government effectiveness⁷.

From the above background, it can be understood that there is a difference between constitutional norms and the practice of elections that take place, the legal considerations of the Constitutional Court, and the implications that will arise after the elimination of the presidential threshold. Therefore, this research was made with the title "*Constitutional Engineering in the Presidential and Vice Presidential Elections: Analysis of the Constitutional Court Decision No. 62/PUU-XXII/2024 on the Elimination of the Presidential Threshold*".

B. Research Methods

A study cannot be called research if it does not have a research method.⁸ Research methods are one of the factors of a problem that will be discussed. The study was conducted using secondary data which was analyzed qualitatively using the Desk Research Method. The literature materials used in writing this research are several references originating from

⁶ Buulolo, Atuloli, Piki Darma Kristian Pardede, and Safarius Laia, 2024, "The Influence of Public Service Quality on Community Participation in the Development of Hilizalootano Village, Mazino District, South Nias Regency," *Journal of Governance Opinion*, Vol. 9 No. 1, pp. 46–60.

⁷ Utami, Mega Setya and Agus Riwanto, 2024, "Analysis of the Constitutionality of the Presidential Threshold Policy to Fulfill the Voting Rights of Citizens in the Presidential Election (Study of the Constitutional Court Decision Number 4/PUU-XXI 2023)," *Public Response*, Vol. 8 No. 3, pp. 417–429.

⁸ Hanifah, I., Hariyanto, H., Ginting, L., Koto, I., & Syafriana, R. (2026). Legal Protection of Indonesia's Fisheries from Foreign Investment: A Social-State Approach. *Jurnal IUS Kajian Hukum dan Keadilan*, 14(1).

research results, studies, and reviews of several writings which are then summarized into a scientific paper.⁹

C. Discussion

1. Legal regulation regarding the threshold for the candidacy of the President and Vice President in Indonesia before the Constitutional Court Decision No. 62/PUU-XXII/2024

Prior to the birth of the Constitutional Court Decision No. 62/PUU-XXII/2024, the regulation regarding the threshold for the candidacy of the President and Vice President was regulated in Article 222 of Law Number 7 of 2017 concerning General Elections. The provision stipulates that candidate pairs can only be proposed by political parties or coalitions of political parties that obtain at least 20% of the number of seats in the House of Representatives or 25% of the national valid votes in the previous House of Representatives elections. Thus, political parties that do not meet the minimum limit automatically do not have the constitutional right to propose a pair of presidential and vice presidential candidates. This rule applies in the last three elections, namely the 2014, 2019, and 2024 elections, and causes the number of candidate pairs to fight in the presidential election to be very limited.

Before the Constitutional Court abolished the provisions of the threshold for the candidacy of the President and Vice President through Decision No. 62/PUU-XXII/2024, the presidential election system in Indonesia was regulated through various constitutional norms and applicable laws. The arrangement provides strict restrictions on the authority to propose candidate pairs and the conditions of support that must be met. The provision regarding the threshold is one of the most influential components in determining the number and type of candidates who can participate in the presidential election.¹⁰ These norms not only serve as administrative provisions, but also have a direct impact on the dynamics of political coalitions and the power configuration of political parties. In practice, the existence of thresholds creates a contestation structure that is greatly influenced by the electoral size of political parties. This causes the presidential candidacy process to be more dependent on the results of previous legislative elections. Therefore, it is important to outline in detail how the legal arrangements

⁹ Simatupang, R. S. A., Hanifah, I., & Mansar, A. (2025). The Concept of Restitution as Legal Accountability in the Crime of Human Trafficking. *Pena Justisia: Media Komunikasi dan Kajian Hukum*, 24(1), 3554-3462.

¹⁰ Akbar, Mohammad, Maulana Rahman, Reinaldo Francisco Luis, dan Ahmad Solikhin Ruslie, 2023, "Indonesia's Presidential Threshold: An Analysis of Legal and Political Dynamics," *JMI*, Vol. 2 No. 2, hlm. 248–264.

regarding presidential candidacy apply before the Constitutional Court's decision in 2024. Article 17 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (Article Reads)

"The pair of Presidential and Vice Presidential Candidates is proposed by the Political Party or the Coalition of Political Parties participating in the General Election before the implementation of the General Election."

The content of this article regulates three important things. First, this article emphasizes that the mechanism for presidential candidacy is indirect candidate nomination, namely through political parties as an intermediary between the people and presidential candidates. Second, this article limits the subject who has the right to propose a candidate pair only to political parties or a combination of political parties, so that it does not provide space for individual individuals to run independently. Third, this article does not contain numerical provisions regarding the percentage of support or certain threshold requirements, so the constitution does not limit how many candidate pairs can participate in elections.¹¹

Based on the overall description, it can be concluded that before the issuance of the Constitutional Court Decision No. 62/PUU-XXII/2024, the setting of the threshold for the candidacy of the President and Vice President was based on a legal structure that was composed from the constitution to laws and regulations. The Constitution only contains general provisions regarding the authority to propose candidate pairs, while special rules regarding thresholds are fully established through the Election Law. Article 222 of the Election Law is a key norm that regulates the threshold and has a wide impact on the nomination mechanism, the dynamics of party coalitions, and the number of candidate pairs in the presidential election. The arrangement has been implemented in four presidential elections and has been tested many times through a request for a material test, but it is still maintained by the Constitutional Court until before the issuance of the 2024 ruling. Thus, the legal structure regarding the threshold before the Constitutional Court's decision has formed a political configuration that is limited and centered on the power of the major political parties.

2. The Constitutional Court's legal considerations in Decision No. 62/PUU-XXII/2024 related to the elimination of the presidential threshold as a form of constitutional engineering

¹¹ Utami, Mega Setya, and Agus Riwanto, 2024, "Analysis of the Constitutionality of the Presidential Threshold Policy to Fulfill the Voting Rights of Citizens in the Presidential Election (Study of the Constitutional Court Decision Number 4/PUU-XXI/2023)," Public Response, Vol. 8 No. 3, pp. 417–429.

The Constitutional Court's legal considerations in Decision No. 62/PUU-XXII/2024 are one of the important aspects to understand the reason for the elimination of the presidential threshold as part of the constitutional design of the presidential and vice presidential elections. This decision shows that the Court not only assesses the provisions of the law textually, but also reviews its conformity with the basic principles of the applicable constitution. The assessment includes the relationship between the authority of lawmakers, the constitutional rights of political parties, and the space that must be given to the people in the electoral process.¹² In this context, the Court sees the need to correct the normative practice that for many years has limited presidential candidacy through electoral requirements that are not sourced from the 1945 Constitution. The approach used by the Court shows that there is an effort to return the nomination arrangement to a more appropriate and proportionate constitutional framework. Therefore, the Court's legal considerations in this decision occupy an important position because it not only answers normative issues, but also rearranges the logic of the presidential election system.

The Constitutional Court Decision No. 62/PUU-XXII/2024 is a major change in the history of holding Presidential and Vice Presidential elections in Indonesia. This decision is a turning point because for the first time the Court explicitly stated that the threshold for presidential candidacy is not in accordance with the constitutional principles stipulated in the 1945 Constitution of the Republic of Indonesia. Prior to this ruling, the Court consistently maintained the applicability of the threshold through a number of previous rulings. However, the Court in this 2024 decision shows a change in approach in interpreting the relationship between the constitutional rights of political parties, people's rights, and the democratic system. This decision is not only based on a study of the norms of the law, but also considers political developments, the empirical impact of elections, and basic constitutional principles.¹³ The Court's legal considerations as a whole show that there is a process of reassessment of the concept of open legal policy which has been considered as a justification for the establishment of a threshold. Therefore, this section comprehensively describes how the Court formulated its legal arguments to decide to remove the provisions of the presidential candidacy threshold.

¹² Perdana, Putra, Ahmad Saifulloh, and Kandang Limun, 2022, "The Interpretation of Lawmakers Shaping the Presidential Threshold Open Legal Policy in the General Election Law Sourced from the Constitutional Court's Decision," *RechtsVinding Journal: National Legal Development Media*, Vol. 11 No. 1 (April), pp. 153–172.

¹³ Ghoffar, Abdul, 2018, "The Constitutional Rights of Political Parties and the Consequences of Single Presidential Candidates-Vice Presidents in Indonesia," *IUS QUIA IUSTUM Legal Journal*, Vol. 25 No. 2, pp. 359–378.

The Constitutional Court's Consideration regarding the Conformity of the Threshold with Article 6° of the 1945 Constitution, Article 6° paragraph (2) reads.

"The pair of Presidential and Vice Presidential Candidates is proposed by the Political Party or the Coalition of Political Parties participating in the General Election before the implementation of the General Election."

The Constitutional Court stated that Article 6° paragraph (2) does not provide room for lawmakers to add conditions in the form of a percentage of DPR seats and national votes. In the Court's perspective, the constitutional norm is complete and does not require the addition of other substantive conditions. The Court stated that the use of thresholds could not be considered a "further arrangement" of a technical nature, as the threshold provision changed the basic structure of candidacy.¹⁴ Adding support requirements in a certain number is the same as limiting who has the right to propose candidates and ultimately limiting who can be a presidential candidate. The Constitutional Court considers that this is a material modification to the constitution, not a technical regulation. Therefore, the Court emphasized that the lawmakers had exceeded the limits of their authority when formulating the threshold provisions in Article 222 of the Election Law. In addition, the Constitutional Court's Consideration on the Principle of People's Sovereignty and Political Rights is regulated in Article 1 paragraph (2) of the 1945 Constitution: sovereignty is in the hands of the people.

3. Implications of the elimination of the presidential threshold on the presidential and vice presidential election systems in the perspective of constitutional engineering and democratic principles in Indonesia

The results of the study show that the elimination of the presidential threshold based on the Constitutional Court Decision No. 62/PUU-XXII/2024 resulted in major changes in the constitutional engineering of the Presidential and Vice Presidential election systems.¹⁵ This decision emphasizes that the mechanism for presidential candidacy must again refer to Article 6 paragraph (2) of the 1945 Constitution as the highest norm, not to the will of the lawmakers. The amendment corrects the previous constitutional practice that placed additional conditions through Article 222 of the Election Law without constitutional legitimacy. The previously

¹⁴ Kurnia, Titon Slamet, 2020, "Presidential Candidacy Threshold and Presidentialism Affirmation in Indonesia," *Padjadjaran Journal of Legal Science*, Vol. 7 No. 3, pp. 353–379.

¹⁵ Utami, Mega Setya, and Agus Riwanto, 2024, "Analysis of the Constitutionality of the Presidential Threshold Policy to Fulfill the Voting Rights of Citizens in the Presidential Election (Study of the Constitutional Court Decision Number 4/PUU-XXI/2023)," *Public Response*, Vol. 8 No. 3, pp. 417–429.

exclusive nomination structure was re-engineered into a more open and equal system.¹⁶ The results of the analysis show that the Constitutional Court's decision functions as a constitutional instrument to straighten the direction of the preparation of election norms so that it returns to the original design of the 1945 Constitution. Thalia, also explained that corrections to election norms are a form of constitutional engineering to maintain the supremacy of the constitution.¹⁷ From this result, it can be understood that the Constitutional Court's decision has shifted the basis for presidential candidacy from the legal framework to the constitutional framework.

From the perspective of constitutional engineering, the elimination of the threshold returns the presidential candidacy process to the principle of pure constitutionality. The Constitutional Court considers that presidential candidacy is a constitutional right of political parties that should not be limited by regulations under the constitution. The discussion of theory shows that the right constitutional engineering is the rearrangement of norms so that they do not exceed the authority of the constitution. Mahmudi, through previous research, emphasized that the restriction of political rights is only valid if it comes from the constitution.¹⁸ In this context, the Constitutional Court's decision improves the legal structure of elections by eliminating conditions that have no constitutional basis. This arrangement changes the direction of norm formulation to be more in accordance with the principle of *lex superior derogat legi inferiori*. This engineering strengthens the function of the constitution as the main determinant of the requirements for presidential candidacy.

The results of subsequent research show that the elimination of the threshold strengthens the principle of political equality which is the pillar of democracy. The previous threshold created inequality because only major parties had access to propose presidential candidates. After abolishing it, all political parties gain equal space to participate in the candidacy process. This finding is in accordance with the principle of equal political participation described, The

¹⁶ Ibid p. 455

¹⁷ Matutu, Thalia Christine M.P.D., and Ghina Salsabila Aven, 2024, "Juridical Analysis of the Abolition of the Presidential Threshold and Its Impact on the Presidential Election System of the Republic of Indonesia (Case Study: Constitutional Court Decision Number 62/PUU-XXII/2024)," *Rewang Rencang: Lex Generalis Law Journal*, Vol. 4 No. 8, pp. 1–17.

¹⁸ Mahmudi, Mohammad, and Fathor Rahman, 2025, "Reconstruction of the Presidential Election System After the Constitutional Court Decision No. 62/PUU-XXII/2024 concerning the Threshold for Proposing Presidential and Vice Presidential Candidates," *HUNILA: Journal of Legal Science and Judicial Integration*, Vol. 3 No. 2, pp. 100–116.

principle emphasizes that no political group should be privileged in the electoral process.¹⁹ With this new structure, the electoral design becomes more inclusive and reflects the equality guaranteed by the constitution. This open candidacy pattern forms a new foundation for fairer political competition.

From a democratic perspective, the elimination of the threshold opens up opportunities for more pairs of presidential candidates. The increasing variety of candidates enriches the people's political representation and expands the arena of electoral competition. The discussion of the theory of genuine elections emphasizes that the quality of elections improves when voters can choose from a wider spectrum of alternatives. Studies show that the diversity of candidates strengthens the quality of public deliberation. This situation puts voters in a more empowered position because political choices are no longer dictated by the power configuration of a particular party.²⁰ More competitive elections also force presidential candidates to present more substantive ideas. Therefore, the democratic implications of the Constitutional Court's decision are clearly seen in improving the quality and diversity of political contestation.

D. Conclusion

The setting of the threshold for the candidacy of the President and Vice President before the issuance of the Constitutional Court Decision Number 62/PUU-XXII/2024 shows that there is a discrepancy between the provisions of Article 222 of the Election Law and constitutional norms, especially Article 6A paragraph (2) of the 1945 Constitution of the Republic of Indonesia. The implementation of the presidential threshold has added substantive requirements for candidacy that are not directly ordered by the constitution, thus restricting the rights of political parties participating in the election in proposing presidential and vice presidential candidates. This condition also changes the basic structure of presidential candidacy as designed by the constitution and has an impact on election practices that take place with narrow competition spaces and unequal access to candidacy.

The Constitutional Court's legal considerations in the decision show a significant change in approach compared to previous rulings. The Court considers that the provision of the

¹⁹ Harahap, Munawir, and Mhd. Yadi Harahap, 2025, "Analysis of the Constitutional Court Decision Number 62/PUU-XXII/2024 concerning the Elimination of the Presidential Threshold from the *Siyasah Qadhaiyyah* Perspective," *SENTRI: Journal of Scientific Research*, Vol. 4 No. 7, pp. 331–349.

²⁰ Anwar, Habib, and Mohammad Saleh, 2025, "Legal Consequences of the Elimination of the Presidential Threshold in Elections Based on the Constitutional Court Decision Number 62/PUU-XXII/2024," *AURELIA: Indonesian Journal of Research and Community Service*, Vol. 4 No. 2, pp. 2467–2477.

nomination threshold can no longer be maintained under the pretext of open legal policy, because the substance of the regulation has touched and limited the constitutional rights of citizens and political parties. The Court emphasized that the restriction of political rights can only be justified if it comes directly from the provisions of the 1945 Constitution. Therefore, the presidential threshold is declared contrary to the principle of people's sovereignty, the principle of equality of citizens' positions in law and government, and the guarantee of equal opportunities for every citizen in government.

The elimination of the presidential threshold through the Constitutional Court Decision Number 62/PUU-XXII/2024 has important implications for the presidential and vice presidential election systems, both from the perspective of constitutional engineering and strengthening democratic principles. The presidential candidacy design is returned to constitutional norms that provide equal access for all political parties participating in the election to propose candidate pairs. These changes strengthen political equality, expand representation, and encourage more open and fair electoral competition. In addition, the elimination of the threshold has the potential to reduce the dominance of major political parties, improve the dynamics of political coalitions, improve the quality of election administration, and strengthen the substantive implementation of people's sovereignty.

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