Strata Law Review, 2026, Vol. 4, No. 2, 131–145
E-ISSN: 2986-8114 | P-ISSN: 2987-3185
doi: 10.59631/slr.v4i2.595
Advance Access publication September 30, 2026

STRATA LAW REVIEW
journals.stratapersada.com/index.php/slr

Reconstructing the Presidential Electoral System after the Abolition of the Presidential Threshold: Implications of Constitutional Court Decision on Indonesia's Multi-Party System

Gibran Awaludin Kabakoran[a*], Otom Mustomi[b]

[a*]*Universitas Islam Jakarta, Indonesia, gibran.kabakoran@uij.ac.id*
[b]*Universitas Islam Jakarta, Indonesia, otommustomi@gmail.com*

Article History	Submitted	Revised	Accepted
	2026-08-22	2026-08-29 & 2026-09-22	2026-09-28

Abstract

This study critically examines how the abolition reconfigures the institutional architecture of Indonesia's multi-party presidential system, analyzes the shift in the Constitutional Court's legal reasoning underlying the decision, and evaluates the extent to which the ruling resonates with the Islamic legal principle of *al-musawah* (equality) read together with *al-'adl* (justice) and *maslahah* (public benefit). Employing normative legal research through statutory, historical, and conceptual approaches, complemented by an Islamic legal (*fiqh siyasah*) approach to primary Islamic sources, the study finds that removing the threshold expands political inclusiveness and procedural equality in presidential nomination, yet simultaneously heightens the risk of candidate proliferation, coalition fragmentation, and reduced governability that must be anticipated through redesigned electoral mechanisms. The Constitutional Court's reasoning reflects a doctrinal shift from treating the threshold as an open legal policy to subjecting it to strict constitutional review once it burdens political rights. From an Islamic legal perspective, *al-musawah* justifies equal nomination opportunity, but must be balanced against *maslahah*, so that equality of access does not come at the expense of governmental effectiveness. This study argues that abolishing the presidential threshold requires not merely legislative harmonization, but a broader institutional redesign that reconciles political inclusiveness with a functioning multi-party presidential system.

Keywords: Constitutional court, islamic law, multi-party system, political rights, presidential threshold.

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INTRODUCTION

Elections constitute not merely a symbol of democracy but also a fundamental mechanism through which popular sovereignty is exercised and assessed.[1] As a principal expression of the people's sovereignty, elections provide a constitutional arena for citizens to participate in determining political leadership through processes that guarantee freedom of expression, association, and political choice. In the context of Indonesia's presidential system, however, the design of electoral participation cannot be separated from the institutional relationship between presidentialism and a multi-party political system. This relationship became particularly significant following Constitutional Court Decision No. 62/PUU-XXII/2024, which abolished the presidential nomination threshold and thereby altered a central mechanism through which political parties previously aggregated electoral support before the presidential election. The decision consequently raises a broader constitutional question concerning how Indonesia should reconcile equal political participation, popular sovereignty, and effective governance within a presidential system characterized by political pluralism.

Elections function as a selective mechanism through which popular sovereignty is delegated to trusted individuals or political parties, so that the people's votes must be counted proportionally.[2] Indonesia adheres to a presidential system of government, as affirmed in Article 4(1) and Article 17 of the 1945 Constitution, under which the President serves as head of state who is not accountable to the House of Representatives (DPR), and ministers are appointed and dismissed by the President.[3] As one of the branches of judicial power, the Constitutional Court is tasked with safeguarding the constitutionality of legal norms through judicial review, a function that has led it to be described as a political court. As a logical consequence of the principle of constitutional supremacy, the Constitutional Court maintains coherence within the hierarchy of legal norms so that state action does not contravene the Constitution. It was in this context that the Constitutional Court issued a genuinely landmark ruling, annulling the presidential and vice-presidential nomination threshold (*presidential threshold*) under Article 222 of Law Number 7 of 2017 on General Elections, through Constitutional Court Decision Number 62/PUU-XXII/2024. The presidential threshold was first introduced in Law Number 23 of 2003, requiring a minimum of 15 or 20 percent of the national seat share, before being raised to at least 20 percent of DPR seats or 25 percent of the national valid vote through Law Number 42 of 2008 — a requirement that remained in force until Law Number 7 of 2017.[4] The threshold was widely regarded as discriminatory toward new or small parties unable to nominate a presidential and vice-presidential pair independently, and as contradicting the pluralism of Indonesian society that gave rise to its multi-party system.

The abolition of the presidential threshold reopens a long-standing and still unsettled debate in comparative political science concerning the compatibility of presidentialism with multi-party

[1] Lucian-Vasile Szabo and Simona Bader-Jurj, "Electoral Confrontation on Social Media Platforms: Political Communication and Institutional Contestation in Romania (2025)," *Journalism and Media* 7, no. 1 (February 13, 2026): 37, https://doi.org/10.3390/journalmedia7010037; David Gilmartin, "Towards a Global History of Voting: Sovereignty, the Diffusion of Ideas, and the Enchanted Individual," *Religions* 3, no. 2 (May 8, 2012): 407–23, https://doi.org/10.3390/rel3020407.

[2] Saldi Isra and Khairul Fahmi, *Pemilihan Umum Demokratis* (Jakarta: PT RajaGrafindo Persada, 2021).

[3] Moh Mahfud MD, *Politik Hukum Di Indonesia*, Edisi Revi (Jakarta: Rajawali Pers, 2017).

[4] Muhammad Faishal Rizqullah, "Dampak Presidential Threshold Terhadap Pencalonan Presiden Dalam Pemilu Tahun 2024," *Jurnal Politique* 4, no. 1 (2024), https://doi.org/https://doi.org/10.15642/politique.2024.4.1.61-84.

systems**.** An earlier generation of scholarship, most influentially Juan Linz and Scott Mainwaring, argued that combining a directly elected president with a fragmented multi-party legislature tends to generate governability problems: presidents lack assured legislative majorities, coalitions are difficult to sustain, and the competing democratic legitimacy of the executive and legislature increases the risk of institutional deadlock.[5] More recent comparative scholarship, however, has substantially qualified this pessimism. Carlos Pereira and Marcus André Melo show that multiparty presidentialism, through coalition-management mechanisms such as cabinet power-sharing and legislative agenda control, can be sustained and even function effectively, as illustrated by the durability of coalitional presidentialism in Brazil, Chile, and Uruguay, while Paul Chaisty, Nic Cheeseman, and Timothy Power similarly argue that the presidentialism debate should be reconceptualized around coalitional politics rather than treated as an inherent institutional pathology.[6]

José Antonio Cheibub, Adam Przeworski, and Sebastian Saiegh add empirical weight to this revisionist turn, finding that government coalitions under presidentialism can achieve legislative success comparable to that of parliamentary systems.[7] Indonesia's own experience of coalitional presidentialism since 1999 — marked by consistently large governing coalitions despite high party fragmentation — sits within this revisionist literature, yet has rarely been examined in relation to the constitutional design of the presidential nomination threshold itself, still less in relation to the threshold's abolition. Existing studies on Decision Number 62/PUU-XXII/2024 have so far largely offered doctrinal description of the ruling and its immediate legal consequences,[8] without systematically connecting the decision to this comparative debate over whether removing the threshold strengthens political equality and inclusiveness or instead intensifies party fragmentation and weakens governability within Indonesia's multi-party presidential system — and without examining this institutional question together with the normative resources of Islamic legal thought on political equality. This is the gap the present article seeks to address. The relevance of Islamic legal thought lies in Indonesia's constitutional context, where religious values are recognized within the framework of Pancasila and Article 29 of the 1945 Constitution. This study specifically draws on *fiqh siyasah* to examine political participation, equality, justice, and public welfare. Accordingly, *al-musawah* is used to assess political equality, *al-'adl* to examine fairness and non-arbitrary exclusion, and *maslahah* to consider the implications of institutional design for public welfare and governmental effectiveness. These principles complement, rather than replace, constitutional and institutional analysis.

This study aims to examine the constitutional, institutional, and normative consequences of Constitutional Court Decision Number 62/PUU-XXII/2024, which abolished the presidential nomination threshold in Indonesia. Specifically, the study seeks: (1) to analyze the institutional

[5] Juan J Linz, "The Perils of Presidentialism," *Journal of Democracy* 1, no. 1 (1990): 51–69, https://www.journalofdemocracy.org/articles/the-perils-of-presidentialism/.

[6] Marcus André Melo Pereira, Carlos, "The Surprising Success of Multiparty Presidentialism," *Journal of Democracy* 23, no. 3 (2012): 156–70, https://www.journalofdemocracy.org/articles/the-surprising-success-of-multiparty-presidentialism/.

[7] Sebastian M. Saiegh Cheibub, José Antonio, Adam Przeworski, "Government Coalitions and Legislative Success Under Presidentialism and Parliamentarism.","* *British Journal of Political Science* 4 (2004): 565–587, https://doi.org/https://doi.org/10.1017/S0007123404000195.

[8] Krista Yitawati and Taufiq Yuli Purnama Putri Andini Octaviani, Sarjiyati, "Analisis Yuridis Putusan Hakim Nomor 62/PUU-XXII 2024 Penghapusan Presidential Threshold," *Rewang Rencang : Jurnal Hukum Lex Generalis* 7, no. 8 (2026), https://doi.org/https://doi.org/10.56370/jhlg.v6i10.3212.

implications of the decision for Indonesia's multi-party presidential system, particularly regarding party fragmentation, coalition formation, and governmental effectiveness; (2) to critically examine the Constitutional Court's legal reasoning in abolishing the presidential threshold, including its departure from earlier jurisprudence that treated the threshold as a matter of *open legal policy*; and (3) to evaluate the consistency of the decision with Islamic legal principles on political rights, particularly *al-musawah* (equality), read together with *al-'adl* (justice) and *maslahah* (public benefit). By integrating these three dimensions—institutional consequences, constitutional doctrine, and Islamic legal normativity—this study seeks to contribute to contemporary debates on the future design of Indonesia's multi-party presidential system following the abolition of the presidential nomination threshold.

METHOD

This study employs normative legal research (*yuridis normatif*), a doctrinal method that focuses on positive legal rules currently in force and examines legal issues textually.[9] The research centers on the relationship between legal-political configuration and Decision Number 62/PUU-XXII/2024 on the abolition of the presidential threshold, on the one hand, and the implementation of Indonesia's multi-party system, on the other. Three approaches are employed: the statute approach, the historical approach, and the conceptual approach, which draws on paradigms and doctrines developed within legal scholarship.[10] Because this study also examines the relevance of Islamic legal principles to political rights, it additionally employs an Islamic legal (fiqh siyasah) approach. This approach draws on islamic literature to identify the operative concepts of al-musawah (equality), al-'adl (justice), and maslahah (public benefit), together with the analytical method of maqasid al-shari'ah (the objectives of Islamic law), used to assess the extent to which these principles are reflected in — and place normative limits upon — the constitutional reasoning underlying Decision Number 62/PUU-XXII/2024. The Islamic legal approach is thus applied as an independent analytical framework rather than merely as a source of additional legitimacy for the Constitutional Court's ruling.

The legal materials used consist of primary legal materials, namely Article 6A(2) of the 1945 Constitution and Constitutional Court Decision Number 62/PUU-XXII/2024; secondary legal materials, comprising textbooks on constitutional law, scholarly journal articles, and classical and contemporary Islamic legal literature; and tertiary legal materials, including legal dictionaries and encyclopedias. Legal materials were collected through library research, examining statutes and regulations, scholarly journals, books, and prior studies.[11] The materials were analyzed qualitatively through grammatical, systematic, and historical interpretation, in order to identify the meaning, purpose, and legal consequences of the Constitutional Court's decision for the presidential threshold and Indonesia's multi-party system, complemented by *maqasid*-based analysis of the Islamic legal materials.[12]

[9] Muhaimin, *Metode Penelitian Hukum* (NTB: Mataram University Press, 2020).
[10] *Ibid.*
[11] Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UII Press, 2014).
[12] Zainal Arifin Mochtar dan Eddy Omar Sharif Hiariej, *Dasar-Dasar Ilmu Hukum (Memahami Kaidah, Teori, Asas Dan Filsafat Hukum)* (Indonesia: Red & White Publishing, 2021).

Doi: 10.59631/slr.v4i2.595

RESULT AND DISCUSSION

Implications of the Constitutional Court's Decision for Indonesia's Multi-Party System

The diversity of culture, religion, race, and ethnicity within Indonesian society is one of the fundamental reasons for the adoption of a multi-party system, since sharp social differences have historically driven groups to form organizations through which to channel their aspirations.[13] The embryonic form of Indonesia's multi-party system can be traced to Vice-President Moh. Hatta's Announcement Number X of 1945, which provided the constitutional basis for the emergence of political parties in Indonesia.[14]

Combining a multi-party system with a presidential system of government carries the risk of dual legitimacy, as Juan Linz observed, because both the president and members of parliament are directly elected by the people and therefore possess equally strong democratic mandates.[15] Scott Mainwaring further argued that combining presidentialism and multipartism tends to produce ineffective and unstable government, since an elected president may come from a party lacking majority support in parliament, making it difficult to build a durable and binding coalition.[16] As discussed above, however, this pessimistic diagnosis has been substantially qualified by more recent comparative research showing that multiparty presidential systems can achieve durable governability through coalition-management mechanisms, cabinet power-sharing, and legislative agenda control.[17]

The foregoing literature nevertheless requires a more precise application to the Indonesian case. The existence of dual legitimacy is structurally embedded in presidential government because the president and legislature derive their mandates independently from the electorate. The presidential nomination threshold should therefore not be treated as the sole or primary cause of dual legitimacy. Its more specific institutional effect was to shape how political parties responded to legislative fragmentation by requiring them to aggregate electoral support before the presidential election. The relevant causal proposition is consequently narrower: the threshold constituted one mechanism through which Indonesia attempted to manage the consequences of multipartism, but it did not itself create the underlying dual-legitimacy structure. Its abolition therefore removes one mechanism of pre-electoral aggregation without eliminating the broader institutional challenge of securing legislative support for a directly elected president.

Read against this literature, the author's position is that the dual-legitimacy risk identified by Linz and Mainwaring is primarily a function of the 20 percent presidential nomination threshold rather than of multipartism as such: because the threshold compelled the formation of large pre-electoral coalitions merely to satisfy the nomination requirement, it produced broad but ideologically loose coalitions that weakened, rather than strengthened, the independence and coherence of the elected president's governing base. Once the threshold is removed, this

[13] Budiarjo, *Dasar-Dasar Ilmu Politik. Edisi Revisi*.
[14] Moh Mahfud MD, *Politik Hukum Di Indonesia*.
[15] Linz, "The Perils of Presidentialism."
[16] Scott Mainwaring, "Presidentialism, Multipartism, and Democracy: The Difficult Combination," *Comparative Political Studie* 26, no. 2 (1993): 198–228, https://doi.org/https://doi.org/10.1177/0010414093026002003.
[17] Pereira, Carlos, "The Surprising Success of Multiparty Presidentialism."

particular source of dual-legitimacy risk should recede — but it does not follow that all governability risk disappears; it is instead displaced from the nomination stage to the post-electoral coalition-formation stage, a point developed further below.

Indonesia's post-authoritarian electoral experience provides important evidence for assessing this institutional shift. Since the 1999 election, presidents have repeatedly governed in circumstances in which their own parties did not necessarily possess a legislative majority, making coalition formation a recurring feature rather than an exceptional response to a particular election. The coalition patterns, however, have not been uniform. The 2004 election demonstrated that a presidential candidate could win despite entering the first round with a relatively limited party base, while subsequent governments developed broader parliamentary coalitions. In 2009, the SBY-Boediono ticket was supported by a coalition involving several parliamentary parties; in 2014, the Jokowi-Jusuf Kalla ticket won despite being supported by a coalition smaller than that of its principal competitor; and in 2019, the governing coalition became substantially broader. These variations indicate that coalition size alone cannot explain presidential governability. Recent research similarly finds that the consequences of coalition size depend on presidential strategies, party responses, legislative oversight, and the sequencing of coalition-building.

The Indonesian evidence therefore calls for a qualification of the "grand coalition" argument.[18] Large governing coalitions have been recurrent in the post-1999 period, but their existence does not demonstrate that large coalitions are either necessary or sufficient for effective presidential government. The experience of 2014, for example, demonstrates that a comparatively narrower coalition can nevertheless produce an electoral victory, while the subsequent expansion of governing coalitions illustrates the continuing importance of post-electoral bargaining. The more defensible conclusion is that Indonesia has developed a recurring pattern of coalition presidentialism in which coalition size, coalition timing, and the president's capacity to manage party interests jointly shape governability.

Article 6A(2) of the 1945 Constitution explicitly requires only that a presidential and vice-presidential pair be nominated by a political party or a coalition of political parties participating in the general election, without prescribing any specific percentage of votes or seats.[19] Through Decision Number 62/PUU-XXII/2024, the Constitutional Court annulled Article 222 of Law Number 7 of 2017, which had required a threshold of 20 percent of DPR seats or 25 percent of the national valid vote. This study identifies two fundamental implications of the decision: a juridical implication and a political implication.

The constitutional removal of the threshold should therefore be distinguished from the broader question of governability. The Court's decision changes the legal conditions for entering the presidential contest, but it does not determine the political conditions under which the elected president must govern. A party that is able to nominate a presidential ticket without

[18] Bayu Indra Pratama et al., "Mapping National and Local Political Coalitions in Indonesia: Multistage Social Network Analysis Oversized Coalition Governor, Regent, and Mayor Elections 2024," *Cogent Social Sciences* 12, no. 1 (December 31, 2026), https://doi.org/10.1080/23311886.2025.2611443.

[19] Shelli Nur Salam, "Implikasi Putusan Mahkamah Konstitusi Terhadap Demokrasi Di Indonesia: Studi Yuridis-Normatif," *Jurnal Perkara* 3, no. 1 (2025): 788–806, https://doi.org/https://doi.org/10.51903/perkara.v3i1.2331.

Doi: 10.59631/slr.v4i2.595

demonstrating prior legislative support may subsequently face the same fragmented parliamentary environment that motivated coalition formation under the former threshold. The institutional effect is consequently better understood as a relocation of the coalition problem: from pre-electoral nomination to post-electoral governance. This distinction is critical because it prevents the abolition of Article 222 from being interpreted either as a complete solution to the problems of multiparty presidentialism or as an automatic source of instability.

1. Juridical Implication

The juridical implication of the decision is the emergence of a normative vacuum in Article 222 of the Election Law, necessitating the harmonization of statutory regulations. As a logical consequence, the House of Representatives and the Government are obligated to revise Law Number 7 of 2017 in accordance with the decision's mandate, consistent with Article 10 of Law Number 12 of 2011 on the Formation of Legislation, which places the follow-up to Constitutional Court decisions among the substantive content of statutes.[20] This obligation also follows from the *final and binding* and *erga omnes* character of Constitutional Court decisions, which are binding upon everyone from the moment of pronouncement, without further legal remedy available to annul them.

2. Political Implication

The political implication of abolishing the presidential threshold is the opening of broader and more inclusive space for every political party contesting the election to nominate a presidential and vice-presidential pair, without needing to satisfy the requirement of 20 percent of seats or 25 percent of the national vote, and without the necessity of forming a large coalition.[21] This is consistent with the principle of popular sovereignty under Article 1(2) of the 1945 Constitution and the principles of direct, general, free, secret, honest, and fair elections under Article 22E(1) of the 1945 Constitution.

The possibility of a larger number of presidential candidates, however, should be treated as an institutional possibility rather than as an inevitable consequence of the Court's decision. Political parties do not necessarily have incentives to nominate separately when electoral competition makes coalition formation strategically advantageous. The number of candidates will depend on the interaction between party resources, candidate appeal, electoral calculations, and expectations concerning the second round. Consequently, the relevant concern is not candidate proliferation per se, but whether the electoral system provides sufficient mechanisms to convert increased political competition into a legitimate governing majority. The second-round mechanism under Article 6A(4) already performs part of this function by requiring the eventual winner to obtain a broader electoral mandate; the remaining challenge concerns the translation of that presidential mandate into stable legislative support.

At the same time, this expansion of nomination access is not without institutional cost, and a purely celebratory reading of the decision risks understating three interrelated risks that the

[20] Maria Farida, *Ilmu Perundang-Undangan: Jenis, Fungsi, Dan Materi Muatan* (Yogyakarta: PT Kanisius, 2017).
[21] Shelli Nur Salam, "Implikasi Putusan Mahkamah Konstitusi Terhadap Demokrasi Di Indonesia: Studi Yuridis-Normatif."

literature on multiparty presidentialism identifies. First, removing a minimum-support requirement is likely to increase the number of presidential and vice-presidential candidate pairs, since parties or small coalitions that previously could not meet the threshold may now nominate independently. Second, a larger number of candidate pairs plausibly reduces first-round vote concentration, increasing the probability that the presidential election will proceed to a second round under Article 6A(4) of the 1945 Constitution, with attendant costs to electoral administration and political stability. Third, and most consequentially for governability, a president elected without having been compelled to build a broad pre-electoral coalition may enter office with a comparatively narrow base of legislative support, so that the coalition-building the threshold previously forced before the election must now occur after it, through post-electoral cabinet formation and legislative bargaining.

Comparative experience — including Indonesia's own pattern of consistently large governing coalitions since 1999 — suggests that this displacement is manageable but not automatic: it depends on the president's capacity to construct and maintain a working legislative coalition through cabinet power-sharing and agenda-setting authority, precisely the mechanisms Pereira and Melo identify as underpinning the durability of multiparty presidentialism elsewhere.[22] The abolition of the presidential threshold should therefore be read not only as an expansion of political equality, but as a transfer of the burden of coalition-building from the electoral arena to the legislative arena — a transfer that calls for a redesigned set of electoral and legislative mechanisms (such as adjustments to legislative-election thresholds, party-coalition rules, or run-off procedures) capable of preserving governmental effectiveness alongside the newly expanded inclusiveness of presidential nomination.[23]

The author submits that a presidential nomination threshold is, in principle, better suited to parliamentary systems of government, in which executive power is formed only after the composition of parliament is known, than to a presidential system that requires the president and the legislature to derive equally direct and independent legitimacy from the electorate. This position, however, should be read as a claim about constitutional design at the point of candidate nomination, not as a claim that multipartism is costless for a presidential system; the governability risks identified above must still be addressed through mechanisms other than a nomination threshold.

The Constitutional Court's Legal Reasoning in Abolishing the Presidential Threshold

Through Decision Number 62/PUU-XXII/2024, the Constitutional Court departed from its earlier position, which had treated the presidential threshold as a matter of open legal policy (*open legal policy*) within the legislature's discretion. In this decision, the Court affirmed that legislative policy must nonetheless be subjected to strict scrutiny where it burdens constitutional and

[22] Luthfil Ansori, "Pembentukan Kabinet Koalisi Dalam Sistem Presidensial Multi Partai Di Indonesia," *Al-Daulah: Jurnal Hukum Dan Perundangan Islam* 12, no. 2 (2023), https://doi.org/https://doi.org/10.24252/ad.vi.42086.
[23] Pereira, Carlos, "The Surprising Success of Multiparty Presidentialism."

political rights.[24] The author groups the Court's legal reasoning into three perspectives: juridical, sociological, and philosophical.

The Court's change of position requires a more nuanced doctrinal assessment. The decision should not necessarily be characterized as a complete abandonment of the *open legal policy* doctrine. Rather, the decision appears to redefine the constitutional limits within which such legislative discretion may operate. The Court maintained that electoral regulation may fall within the legislature's policy-making authority, but concluded that Article 222 exceeded that authority because the presidential threshold was inconsistent with political rights, popular sovereignty, morality, rationality, and the prohibition of intolerable injustice. The critical question, therefore, is not whether *open legal policy* continues to exist, but what doctrinal test the Court now applies to determine when an electoral rule crosses the boundary between permissible legislative choice and unconstitutional restriction.

This doctrinal shift has significant methodological implications. In its earlier jurisprudence, the Court's recognition of the presidential threshold as an *open legal policy* substantially limited the intensity of constitutional review. Decision Number 62/PUU-XXII/2024 demonstrates that a norm previously regarded as belonging to the legislature's policy domain may nevertheless be reconsidered when its practical effects are shown to conflict with constitutional rights and principles. The decision therefore strengthens the Court's role in reviewing electoral design, but simultaneously creates a need for clearer standards of review. Without identifiable criteria for distinguishing an unconstitutional electoral restriction from a legitimate policy choice, the boundary between constitutional adjudication and legislative policy-making may become uncertain. The jurisprudential significance of the decision consequently lies not only in the invalidation of Article 222, but also in the methodological question of how constitutional courts should review electoral rules that affect political participation.

1. Juridical Perspective

The petition was filed by students of UIN Sunan Kalijaga, who challenged the constitutionality of Article 222 of Law Number 7 of 2017 on the ground that it contravened constitutional and human rights under Article 27(1), Article 28D(1) and (2), and Article 28I(2) of the 1945 Constitution.[25] Interpreting the original intent of Article 6A(2) of the 1945 Constitution, the Court held that the provision requires only that a presidential and vice-presidential pair be nominated by a political party or coalition of political parties registered as election participants, without any requirement as to a specific percentage of seats or votes. The Court affirmed that the minimum-percentage threshold in Article 222 not only contravened political rights and popular sovereignty under Article 1(2) of the 1945 Constitution, but also violated the principles of morality and rationality and gave rise to intolerable injustice, such that it was manifestly inconsistent with the 1945 Constitution. The Court's shift in position concerns not merely the magnitude of the

[24] "Putusan Mahkamah Konstitusi Nomor 62/PUU-XXII Tahun 2024," Mahkamah Konstitusi Republik Indonesia, 2024.
[25] Nur Alfi Rahmayanti and Ikhsan Fatah Yasin, "Implikasi Putusan MK No. 62 Tahun 2024 Terkait Penghapusan Presidential Threshold," *TARUNALAW Journal of Law and Syariah* 3, no. 2 (2025): 179–85, https://doi.org/10.54298/tarunalaw.v3i02.475.

threshold percentage, but affirms that any percentage-based threshold for presidential and vice-presidential nomination is inconsistent with Article 6A of the 1945 Constitution.

The Court's comparative references to the United States and Latin American presidential systems should nevertheless be treated with methodological caution. The absence of a presidential nomination threshold in another constitutional system does not, by itself, demonstrate that such a threshold is unconstitutional in Indonesia. Comparative constitutional reasoning is persuasive only when the institutional functions and constitutional structures being compared are sufficiently analogous. The United States, for example, operates within a federal presidential system with a distinctive party nomination process, electoral college, and long-established primary system, while Latin American presidential systems differ substantially from one another in electoral formulas, party-system fragmentation, runoff arrangements, and executive-legislative relations. The comparative evidence therefore supports the possibility of alternative institutional designs, but cannot independently establish the constitutional invalidity of Article 222. The stronger constitutional argument must remain grounded in the text and structure of the 1945 Constitution, particularly Article 6A(2), rather than in the mere absence of comparable thresholds elsewhere.

The Court's interpretation of Article 6A(2) also raises an important question concerning constitutional intent. The text expressly identifies political parties or coalitions of political parties participating in the general election as the constitutional actors entitled to nominate presidential and vice-presidential candidates, but it does not expressly prescribe a numerical threshold. This textual absence supports the Court's conclusion that the 20 percent and 25 percent requirements cannot simply be treated as constitutionally mandated. Nevertheless, the analysis should also account for Article 6A(5), which delegates further regulation of presidential and vice-presidential elections to legislation. The existence of this delegation indicates that the Constitution does not exclude legislative regulation altogether. The decisive question is therefore whether the delegated legislative authority extends to determining conditions for nomination and, if so, what constitutional limitations govern that authority. A stronger doctrinal analysis would explicitly reconcile Articles 6A(2) and 6A(5), rather than relying exclusively on the absence of a numerical threshold in Article 6A(2).

For purposes of institutional analysis, these principles should not be treated merely as abstract ethical values. They can be operationalized as evaluative criteria for assessing the consequences of presidential nomination rules. *Al-musawah* concerns equal access to political participation; *al-'adl* concerns the fairness and non-arbitrariness of the distribution of political opportunities and institutional burdens; and *maslahah* concerns whether the institutional arrangement ultimately protects the collective welfare through effective, accountable, and socially responsive government. This operationalization allows Islamic political thought to engage directly with the institutional consequences of the Court's decision rather than functioning merely as an additional normative justification for the abolition of the threshold.

2. Sociological and Philosophical Perspective

From a sociological perspective, the Court compared the constitutional practice of presidential systems combined with multipartism, such as the United States and the countries of Latin

America, which generally do not recognize a presidential nomination threshold.[26] From a philosophical perspective, the Court held that the presidential threshold violates the spirit of constitutional engineering embedded in Article 6A(3) of the 1945 Constitution, which implicitly envisages more than two presidential and vice-presidential candidate pairs so as to represent Indonesia's diversity and provide voters with fair and open alternative choices.

In the author's view, the Court's legal reasoning resonates with the concept of judicial restraint first articulated by James Bradley Thayer — the self-restraint of judicial power in assessing the constitutionality of legislative products, while preserving the balance between legislative policy and fundamental constitutional norms.[27] In terms of legal reasoning, the Court's considerations can be analyzed through deductive reasoning, with the major premise found in Article 6A(2) and (5) of the 1945 Constitution and the minor premise found in the presidential-threshold norm under Article 222 of the Election Law, arriving at the conclusion that the threshold provision must be annulled.[28]

3. Islamic Legal Principles on Political Rights

Politics in the Islamic view (*siyasah*) is understood as the effort to uphold and apply the principles of *shari'ah* within a system of government for the benefit of the community (*ummah*), as reflected in the Prophet's political consolidation, including the drafting of the Constitution of Medina.[29] In broad terms, the principles of Islamic politics comprise four elements: consultation (*al-shura*), justice (*al-'adl*), responsible freedom (*al-hurriyah*), and equality (*al-musawah*).[30]

The principle of *al-musawah* places every person on an equal footing before the law, without distinction as to racial, religious, ethnic, or socio-economic background. This principle was affirmed by the Prophet in his statement that the law would be upheld even against his own family, and is reflected in the active participation of women in various fields of public life in the early period of Islam.[31] The Islamic conception of political rights thus guarantees equal opportunity for every citizen to hold political office without discrimination.

A reading of Decision Number 62/PUU-XXII/2024 through *al-musawah* alone, however, risks an affirmative and linear equation between the removal of the presidential threshold and the principle of equality, without examining whether that equality may come into tension with other principles of Islamic political thought. *Al-musawah* in classical Islamic legal thought is not an unconditional or unlimited equality; it is inseparable from *al-'adl* (justice), which requires that rights and burdens be distributed proportionately according to relevant differences in capacity and responsibility, and from *maslahah* (public benefit), which directs legal rules toward outcomes

[26] "Putusan Mahkamah Konstitusi Nomor 62/PUU-XXII Tahun 2024."
[27] Shidarta, *Hukum Penalaran Dan Penalaran Hukum Akar Filosofis*, Cetakan 1 (Yogyakarta: Genta Publishing, 2013).
[28] Widodo Dwi Putro, *Menemukan Kebenaran Hukum Dalam Era Post-Truth*, ed. Tristam Pascal Moeliono (Bandung: Sanabil, 2020).
[29] M Rizwan, "Relasi Islam Dan Politik Di Berbagai Negara Muslim," *Jurnal Transparansi Publik (JTP)* 3, no. 2 (2023), https://doi.org/https://doi.org/10.29103/jtp.v3i2.15132.
[30] Aravik and Havis, *Politik Islam: Sejarah Dan Pemikiran*.
[31] Ridwan Ridwan, "Hubungan Islam Dan Politik Di Indonesia Perspektif Pemikiran Hasan Al-Banna," *Jurnal Hukum Samudra Keadilan* 12, no. 2 (2017), https://ejurnalunsam.id/index.php/jhsk/article/view/137.

that protect and advance the welfare of the community as a whole.[32] Read together, these three principles suggest that equal opportunity in presidential nomination is normatively justified under *al-musawah* only insofar as it also serves *al-'adl* and *maslahah*—that is, only insofar as expanded nomination access does not come at the expense of the community's interest in effective and stable government.

Understood in this way, Islamic legal thought does not simply legitimate the Constitutional Court's ruling from the outside; it supplies an independent normative standard against which the ruling's institutional consequences—including the risks of candidate proliferation and reduced governability discussed in Section 3.1—must themselves be evaluated. *Al-musawah* justifies removing a discriminatory percentage-based barrier to nomination; *maslahah*, in turn, requires that this expanded equality be accompanied by institutional arrangements capable of preserving the effectiveness of government that the *maslahah* of the *ummah* demands.

The author finds a substantive parallel between the Constitutional Court's reasoning on equality before the law under Article 27(1) in conjunction with Article 28D(1) of the 1945 Constitution and the principle of *al-musawah* in Islamic political thought. The abolition of the presidential threshold, which opens equal opportunity for every political party contesting the election to nominate a presidential and vice-presidential pair without a seat or vote requirement, can accordingly be understood as an expression of the principle of political equality that Islamic law also upholds — provided, consistently with *al-'adl* and *maslahah*, that this equality is accompanied by institutional mechanisms that safeguard governmental effectiveness.

The relationship between *al-musawah* and *maslahah* is therefore not necessarily linear. Expanding equal access to presidential nomination may advance *al-musawah*, but an increase in political access may also produce institutional fragmentation if not accompanied by mechanisms for electoral aggregation and legislative cooperation. From the perspective of *maslahah*, the relevant issue is whether the expanded opportunity ultimately contributes to a government capable of formulating and implementing policies for the welfare of the community. This does not justify restoring a restrictive nomination threshold. Rather, it indicates that equality in political access should be accompanied by institutional arrangements that prevent the expansion of political participation from becoming disconnected from effective governance.

The principle of *al-'adl* provides the connecting element between *al-musawah* and *maslahah*. If a nomination threshold excludes political parties on the basis of previous legislative results and thereby limits voters' access to alternative presidential candidates, its compatibility with political justice becomes questionable. Conversely, formal equality in nomination cannot by itself satisfy *al-'adl* if the resulting institutional structure systematically impairs accountability or the effective exercise of governmental authority. Justice therefore requires an institutional balance: political participation should remain open and non-arbitrary, while electoral and legislative institutions must ensure that political pluralism can be translated into accountable government.

The institutional implications identified above raise a prior constitutional question: why was the presidential threshold considered permissible for so long, and what explains the Court's

[32] Aravik and Havis, *Politik Islam: Sejarah Dan Pemikiran*.

decision to invalidate it in 2024? Answering this question requires moving from the consequences of the decision to the reasoning that produced it. The Court's interpretation of Article 6A(2), its reassessment of *open legal policy*, and its reliance on comparative constitutional practice determine the constitutional foundation of the institutional changes described above. Once that constitutional foundation is examined, the Islamic principles of *al-musawah*, *al-'adl*, and *maslahah* can subsequently be used not as a separate argument, but as an additional normative framework for evaluating whether the institutional consequences of the decision remain consistent with equality, justice, and public welfare.

CONCLUSION

This study finds that Constitutional Court Decision Number 62/PUU-XXII/2024 produces a juridical implication in the form of a normative vacuum in Article 222 of Law Number 7 of 2017 that requires legislative harmonization, and a political implication in the form of expanded and more inclusive access to presidential nomination, freed from the 20 percent seat or 25 percent vote requirement. However, this expansion should not be understood solely as an increase in political equality. Read against the comparative literature on multiparty presidentialism, the abolition of the presidential threshold also displaces the burden of coalition-building from the pre-electoral to the post-electoral stage, potentially increasing candidate proliferation, political fragmentation, and governability risks.

This finding is connected to a doctrinal shift in the Constitutional Court's reasoning, from treating the presidential threshold as an open legal policy to subjecting it to stricter constitutional scrutiny where it burdens political rights and conflicts with popular sovereignty, morality, rationality, and justice. From the perspective of Islamic legal thought, the decision is consistent with *al-musawah* insofar as it removes a discriminatory barrier to presidential nomination, but such equality cannot be considered in isolation from *al-'adl* and *maslahah*. The three perspectives therefore reveal a central tension: the expansion of political equality through the abolition of the threshold may strengthen electoral inclusiveness, while simultaneously creating institutional challenges that require mechanisms capable of maintaining effective and stable government.

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