



Analysis of constitutional court decision number 62/PUU XXII/2024 concerning the elimination of the minimum threshold for presidential nominations from a siyasah qadaiyyah perspective

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ARTICLE INFO	ABSTRACT
<p>Keywords:</p> <p>Siyasah Qadhaiyyah, Constitutional Court Decisions, Constitutional System, Indonesian Democracy, Substantive Justice.</p>	<p>This study examines Constitutional Court Decision Number 62/PUU-XXII/2024, which annulled the presidential candidacy threshold in Article 222 of Law No. 7/2017 for violating principles of morality, rationality, and justice. Using a normative juridical approach and the <i>siyasah qadaiyyah</i> (Islamic judicial political theory) perspective—alongside Rousseau’s concept of popular sovereignty—this research analyzes the decision’s legal reasoning and its impacts on Indonesia’s constitutional system, governance, and institutional balance. The findings show that removing the threshold enhances democratic participation but may also lead to political instability and institutional imbalances. The study recommends strengthening deliberation, oversight, and justice in political processes, guided by the <i>siyasah qadaiyyah</i> approach, to achieve a just and stable constitutional order.</p> <p>Contribution: This research not only enriches academic understanding but also provides guidance for policymakers working to ensure that Indonesia’s constitutional evolution upholds both justice and stability</p>
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1. PENDAHULUAN

Dalam In national life, Indonesia ideally relies on legal principles as stipulated in the 1945 Constitution. Law plays a primary role in determining the direction of national and state life, not politics or power. When the law is enforced effectively, a healthy democratic system and a stable national life will be created (Yuhelson, 2017). Indonesia's status as a democratic country is affirmed in Article 1 paragraph (2) of the 1945 Constitution, which states that sovereignty rests with the people and is exercised based on the constitution. However, the concept of democracy is interpretive; various regimes can claim to be democratic even though their practices of power are authoritarian. Therefore, democracy needs to be understood not only formally but also substantively.

Democracy is a dynamic concept that continually changes in form, both formally and substantively, depending on the historical and social context in which it develops. After World War II, democracy became a fundamental principle of most countries, with the core being popular sovereignty (Budiardjo, 2008). Abraham Lincoln simplified the concept of democracy as a government of the people, by the people, and for the people. To

realize a democratic government within the rule of law, at least several essential elements are needed: constitutional protection, an independent judiciary, free elections, freedom of speech and association, and civic education. The beginning of 2025 was marked by a landmark decision by the Constitutional Court (MK) regarding the elimination of the presidential threshold. This decision sparked both pros and cons because it was considered to change the national political landscape, especially in the run-up to the election. The MK considered that the provisions on the presidential nomination threshold limited public political participation (Yuhelson, 2017).

Article 222 of Law No. 7 of 2017 requires a party or coalition of parties to have at least 20% of the seats in the House of Representatives or 25% of the national valid vote to nominate a presidential and vice-presidential candidate pair. This provision is considered discriminatory because it hinders the emergence of alternative candidates who might better represent the aspirations of the wider public (Mahkamah Konstitusi Republik Indonesia, 2024). Constitutional Court Decision No. 62/PUU-XXII/2024 stated that amendments to the Election Law must address five issues. First, all participating parties have the right to nominate a running mate. Second, nominations should not be dependent on previous vote or seat acquisition. Third, party cooperation should not diminish the public's choice. Fourth, parties that do not nominate a running mate will be subject to sanctions. Fifth, these changes must create meaningful participation for all parties. The Constitutional Court had previously rejected 33 requests to abolish the presidential threshold. However, in early 2025, the Constitutional Court reversed its stance. This change in stance raised speculation of a hidden political agenda, given the Constitutional Court's controversial previous ruling that allowed Gibran to run for vice president despite being underage (Mahkamah Konstitusi Republik Indonesia, 2024).

The petition to remove the threshold was filed by four students: Enika Maya Oktavia, Rizki Maulana Syafei, Faisal Nasirul Haq, and Tsalis Khoirul Fatna. They argued that the presidential nomination threshold violates morality, rationality, and justice. The government and the House of Representatives' response to this ruling is crucial, given that many previous Constitutional Court decisions have not been seriously followed up (Mahkamah Konstitusi Republik Indonesia, 2024).

A study by Gintulangi (2024) entitled "Analysis of the Impact of the Implementation of the Presidential Threshold System on Political Parties in Indonesia" focuses on analyzing presidential threshold regulations, including presidential nomination requirements, and highlights the implications of the presidential threshold system on political balance, polarization between political parties, and the limitations of small parties. Similar to my research, this study discusses the presidential threshold regulation. However, the difference lies in the focus of the research. This study discusses the implications or impact of the implementation of the presidential threshold regulation on the condition of political parties, while my research will focus more on the implications or impact of the elimination of the presidential threshold regulation on democracy in Indonesia, including on political parties (Gintulangi, 2024).

Research by Putra Perdana dan Ahmad Saifullah (2011) in the journal *Rechtsvinding Media Pembinaan Hukum Nasional* entitled "The Interpretation of Lawmakers in Forming an Open Legal Policy on the Presidential Threshold in the General Election Law Based on the Constitutional Court Decision". This study focuses on how legislators understand and formulate an open legal policy related to the presidential threshold in election regulations, by referring to the Constitutional Court decision as the legal basis. The results of the study indicate that the presidential threshold is categorized as an open legal policy that gives full freedom to lawmakers to determine the amount and regulatory mechanism at the legislative level (Saifulloh, 2011).

Ghoffar's (2018) research, "The Presidential Threshold Problem: Constitutional Court Decisions and Experiences in Other Countries," examines the issue of presidential thresholds in Indonesia by comparing them to practices in several other countries. In his study, Ghoffar reviewed two Constitutional Court decisions that affirmed that the existence of a presidential threshold does not violate the constitution. This study also shows that several countries, such as the United States, Brazil, Peru, Mexico, Colombia, and Kyrgyzstan, do not implement such threshold provisions, yet are still able to maintain government stability. The fundamental difference with my research lies in the orientation of the study, which focuses more on empirical analysis of countries that do not implement a presidential threshold and its impact on the stability of their political systems (Ghoffar, 2018).

This research generally aims to examine in-depth the Constitutional Court Decision No. 62/PUU-XXII/2024, which annulled the presidential threshold provision in Indonesia. This decision has generated extensive discourse in both academic and public circles due to its perceived significant implications for the constitutional order, election mechanisms, and party system in Indonesia. Therefore, this research aims to systematically outline and analyze several important aspects related to this decision.

First, this study aims to understand and analyze the legal considerations of the Constitutional Court judges in the decision. This study will explore the normative basis and legal arguments used by the constitutional judges in deciding this case, especially in the context of the interpretation of Article 6A paragraph (2) of the 1945 Constitution and the democratic principles underlying it. This is important considering that the Constitutional Court is a constitutional interpreting institution that has the authority to ensure that all regulations are in line with the basic principles of the state. In the decision, the Court considered that the presidential threshold provision had hampered the constitutional rights of citizens to run for president and disproportionately limited the space for political contestation (Mahkamah Konstitusi Republik Indonesia, 2024; Mau, 2025).

Second, this study also aims to identify and analyze the constitutional impacts arising from this decision. The elimination of the presidential threshold opens the opportunity for political parties to nominate candidates without having to meet a specific threshold, which on the one hand expands access to nominations and promotes democratization, but on the other hand can lead to political fragmentation and weaken government stability. Therefore, it is important to analyze its impact on the structure of Indonesia's presidential system, the configuration of political parties, and potential changes in the institutional design of elections. Previous studies have shown that the nomination threshold contributes to party polarization and oligarchization, so its removal is seen as a step towards a more inclusive democracy (Arifudin & Rahayu, 2025).

Third, this study aims to assess the Constitutional Court's decision through the perspective of *Siyasah Qada'iyyah*, a branch of Islamic political thought that focuses on the function of the judiciary, justice, and the protection of public rights within the system of government. This approach allows for an ethical and normative reading of legal decisions, based not only on formal legality but also on substantive justice values such as public welfare (*maslahah 'ammah*), justice (*'adl*), and the mandate of power. In Islamic tradition, judicial power is an instrument for upholding social justice and ensuring public benefit. Therefore, the assessment of this decision will involve the *Siyasah Qada'iyyah* framework as a tool to evaluate whether the Constitutional Court has acted as an institution that brings substantive justice to the people (Lianti et al., 2024; Yusrizal & Nuraini, 2025). Thus, this research not only contributes to strengthening the discourse of constitutionalism and the national legal system but also offers a cross-disciplinary approach that combines positive legal studies with Islamic ethical values in order to expand the scope of interpretation of the role of judicial institutions in a modern democratic system.

The theory of popular sovereignty states that the supreme source of power in a country comes from the people. Jacques Rousseau asserted that sovereignty rests entirely with the people. In this context, the elimination of the presidential threshold can be seen as a strengthening of the principle of popular sovereignty, as it opens up broader opportunities for the public to elect and nominate presidential candidates without administrative barriers, thus expanding access to participation in the democratic process (Rousseau, 2023).

According to the Threshold Theory proposed by Jimly Asshiddiqie, the implementation of a threshold is a crucial element in a presidential system of government that adopts a multi-party system. This threshold aims to ensure the president has strong political support in parliament, in order to promote government stability and effectiveness in formulating and implementing public policy. Without the support of a legislative majority, it is feared that the president will experience difficulties in implementing the government's agenda. Furthermore, the implementation of a threshold is also intended to simplify political party fragmentation in the long term, where the higher the threshold set, the faster the process of simplifying the party system can be achieved (Subakti, 2010).

Siyasah Qada'iyyah is a principle in the Islamic constitutional system that serves as a guideline for the administration of law and justice. This principle aims to create a just, harmonious society that is free from harm. In practice, *Siyasah Qada'iyyah* serves as a reference for judges in making legal decisions that are not only based on the text of regulations but also consider aspects of substantive justice and the public interest. When facing legal issues, judges are not solely focused on formal legality but also consider the social, political, and moral impacts of the decisions they make. This is done so that the law is not only rigidly enforced but also able to bring peace and prosperity to social and national life. *Siyasah Qada'iyyah* plays a crucial role in realizing a responsive and just legal system (Kamali, 2002).

2. METHOD

Constitutional Court Decision Number 62/PUU-XXII/2024 and the presidential threshold issue, a theory is understood as a set of concepts, principles, or frameworks of thought used to explain, interpret, and analyze a legal phenomenon systematically and rationally (Soekanto, 2010). The theory of popular sovereignty states that the supreme source of power in a country comes from the people. Jacques Rousseau asserted that sovereignty rests entirely with the people. In this context, the elimination of the presidential threshold can be seen as a

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The research method is the method used in research activities (Saebani, 2015). This study applies a descriptive analytical method with a juridical-normative approach using library research techniques, which emphasizes the review of related legal norms, particularly those contained in Constitutional Court Decision Number 62/PUU-XXII/2024 and the principles of siyasah qadaaiyyah. Data were collected through primary legal materials such as Constitutional Court decisions, and supported by secondary legal materials in the form of books, scientific articles, journals, and other relevant documents. This approach was chosen to build a comprehensive and in-depth understanding of the legal issues being studied.

This methodology is qualitative, where the analysis is carried out inductively, namely from specific data to theoretical generalizations (M. Rahman, 2020). The primary focus is the interpretation of the legal norms, political concepts, and siyasah principles underlying the formation and impact of the Constitutional Court's decisions. Using a normative approach, this research not only evaluates the legality of a provision but also examines how legal principles can be integrated with siyasah theory in assessing the constitutional consequences of such decisions. This approach provides a systematic and objective analytical framework for understanding the relationship between law and politics in the context of the Indonesian constitutional system (Asshiddiqie, 2005).

The type of research used by the researcher is qualitative research, which is a library study, namely the study and analysis of books or other documents relevant to this research. In other words, this research is qualitative research, namely a library study that focuses primarily on books and other literature (Silverman, 2015). The data sources in this study were primary and secondary legal materials. Primary legal materials are the primary data for this study, including official documents such as Constitutional Court Decision Number 62/PUU-XXII/2024. The second data source in this study is secondary legal materials, which complement and support the primary data sources, including the results of literature reviews, articles, scientific journals, and other books that support the analysis in this study.

In this research, the researcher used a data collection technique through library research. This study collected data from various sources, including books, scientific journals, official documents, and online articles relevant to the research topic. This technique allows the researcher to obtain comprehensive and systematic secondary data, especially in analyzing the impact of the Constitutional Court decision Number 62/PUU-XXII/2024 concerning the Presidential Threshold on democracy in Indonesia. Data analysis will be conducted using qualitative analysis, namely by analyzing data using relevant sources and completing the data according to the author's wishes. The method used to analyze this data is the inductive method. The inductive method is a way of thinking that starts from specific facts, concrete events, then draws general generalizations based on these concrete facts.

3. RESULTS AND DISCUSSION

Legal considerations of constitutional court judges in decision number 62/PUU-XXII/2024

The Constitutional Court's (MK) decision No. 62/PUU-XXII/2024 marks a significant milestone in the dynamics of Indonesian constitutional law, particularly concerning the mechanism for constitutional review of

norms within the electoral system. In this case, the Constitutional Court again reviewed the provisions of Article 222 of Law No. 7 of 2017 concerning General Elections. This article stipulates that only political parties or coalitions of political parties that obtained at least 20% of the seats in the People's Representative Council (DPR) or 25% of the valid national vote in the previous election may nominate a presidential and vice-presidential pair.

In its deliberations, the Court highlighted that the presidential threshold regulation directly impacts citizens' political rights, including the right to vote and be elected. While the norm aims to create a stable and effective presidential system in a multi-party context, the Court must also consider whether the provision violates constitutional principles, particularly the principles of equality and fairness in political contestation (Ghoffar, 2018). A study by Hapsari and Saraswati (2023) in the Indonesian Legal Development Journal confirmed that the threshold silences potential political alternatives and narrows the space for electoral democracy (Hapsari & Saraswati, 2023).

The Constitutional Court judges highlighted the essential principle that setting the presidential threshold has direct implications for citizens' rights to elect and be elected, as well as the creation of equal opportunities for political participation (P., 2025; Pasha, 2025). Legal certainty must go hand in hand with respect for the values of substantial democracy. Prior to this decision, the Court rejected 33 applications for judicial review of Article 222 because the applicants were not deemed to have legal standing according to Article 51 paragraph (1) of the Constitutional Court Law. This shows that the Constitutional Court previously focused more on formal requirements than on the essence of the violation of human rights (Widodo et al., 2022).

The Court emphasized that the article on the nomination threshold is an open legal policy, namely the authority of the law-makers (DPR and President), as long as it does not violate the 1945 Constitution. Therefore, if the norm is deemed not to be clearly unconstitutional, the Constitutional Court limits its role to being a normative judge, not a political policy maker (Pasha, 2025). This ruling marks the Court's judicial pivot from formal balance to a contextual-substantive approach. In addition to emphasizing constitutional rights, the judges also began to consider democratic political values such as political access and candidate pluralism, implying a more progressive judicial style (Armesta et al., 2023). Reactions to the ruling were mixed. Media outlets such noted that the ruling shocked the public and sparked debate about the impact of the threshold on the presidential system (DW, 2025). Reuters reports that while not lowering the formal threshold, the court asserted that the norm did not have binding legal force, opening the door for candidates from smaller parties (Widianto et al., 2025).

The presidential threshold, which requires a minimum of 20% of the House of Representatives (DPR) seats or 25% of the national vote to nominate a president, has long been a problem for constitutional democracy in Indonesia. This regulation is considered to limit the constitutional right to be elected and to vote, and to reduce the space for alternative candidates from outside the dominant major parties. According to Mahardika (2019), This system has the potential to violate political rights because it hinders fair and inclusive political participation, especially for new and independent parties, which indirectly creates a political oligarchy in Indonesia's presidential system (Mahardika, 2019). Despite being filed more than 30 times, all judicial review requests for Article 222 of Law No. 7/2017 have consistently been rejected by the Constitutional Court. The common reason is that the applicants lack substantial evidence of constitutional loss, thus being deemed to not meet the legal standing requirements. Pasha (2025) emphasized that only political parties or coalitions of parties have legal standing to challenge this norm, not individual citizens (Pasha, 2025).

In Case No. 62/PUU XXII/2024, the Constitutional Court conducted a comprehensive review of Article 222 based on the judicial authority in Article 24C paragraph (1) of the 1945 Constitution. This process affirms the principle of checks and balances, ensuring that the law remains in line with the spirit of the rule of law and a just democracy (Constitutional Court of the Republic of Indonesia, 2024). The Court emphasized that this threshold includes open legal policy, namely the realm of legislators (DPR and President). Judicial intervention is only justified if the norm is clearly proven to be contrary to the 1945 Constitution. This attitude reflects the Constitutional Court's caution in maintaining the separation of powers. Constitutional Court Decisions No. 52/PUU XX/2022 and 73/PUU XX/2022 also emphasize that the threshold does not directly contradict the human rights of citizens as long as it is not discriminatory (Fachri, 2022).

Interestingly, a dissenting opinion emerged among the judges. They argued that the high threshold provision could potentially narrow the space for political participation, hinder independent candidates, and strengthen the dominance of large parties (Prajatama, 2014). This has implications for narrowing people's political choices and potentially reducing the quality of democracy. They emphasized the importance of the principles of inclusivity, equal access, and political justice in the electoral system of a democratic country. This difference of opinion reflects the importance of legal pluralism and open deliberation within the Constitutional Court (Etra, 2022). The

practice of dissenting opinions is not new in the history of the Constitutional Court. Justices Anwar Usman and Arief Hidayat once delivered dissenting opinions in Decision Number 97/PUU-XI/2013, while Justice I Dewa Gede Palguna delivered a different opinion in Decision Number 012-016-019/PUU-XV/2006. In subsequent decisions, the positions of these justices may change following the dynamics of constitutional interpretation.

This shift in position demonstrates that constitutional interpretation is dynamic and contextual, dependent on social, political, and legal developments. Dissenting opinions, while not part of a binding decision, have constitutional value in enriching legal discourse and serving as a reference for future developments in constitutional doctrine. The Court also emphasized that in making decisions, the Court may not act *ultra petita*, that is, beyond the petitioner's request. This is crucial to maintaining the Court's authority within constitutional limits and not interfering with the legislative process, which falls under the jurisdiction of other institutions.

In Decision Number 13/PUU-XX/2022, the Court stated that Article 222 of the Election Law is constitutionally legal, but requires continued monitoring to ensure that the norm does not become an excessive restriction on citizens' political rights. The Court emphasized the need to consider legal, political, social, and democratic aspects to ensure regulations remain proportional and in line with the spirit of the constitution. This consideration was conveyed by Judge Arief Hidayat, who explained that the application of Article 222 does not limit the number of candidate pairs and that voters' right to vote remains guaranteed (Pujianti, 2022). In Decision Number 62/PUU-XXII/2024, the Constitutional Court concluded that Article 222 is unconstitutional and no longer legally binding. The Constitutional Court emphasized that shifts in legal interpretation must be viewed as a response to evolving socio-political dynamics, through interpretive dialogue between judges within the framework of judicial overruling and an open legal policy (Mahkamah Konstitusi Republik Indonesia, 2024).

This change in approach indicates that the Court no longer merely places legal provisions within the framework of procedural formalism, but also opens up space to assess the substance of norms based on the values of constitutional justice and the development of society (Asshiddiqie, 2010). In the decision, the Court stated that Article 222 is not in line with the 1945 Constitution of the Republic of Indonesia and does not have binding legal legality. This reflects the paradigm transformation in the enforcement of constitutional law in Indonesia, and marks the Court's openness to social and political change as part of a living constitution (Asshiddiqie, 2005). The Court also acknowledged that in the context of a democratic system, meaningful political participation is an important element of constitutional rights (Asshiddiqie, 2005). The Court opened the way for considering that overly strict procedural restrictions could hinder citizens from exercising their right to elect and be elected, which is part of the guarantee of civil and political rights.

This difference of opinion reflects the tension between two models of constitutional law enforcement: the legal-formal model and the substantive justice model (Hadinatha, 2022). The legal-formal model requires that all procedural requirements be met before substantive considerations are examined, while the substantive justice model places justice as the primary value that can shift procedural rigidity in certain situations. The Constitutional Court in this ruling preferred to adhere to the legal-formal approach, but the dissenting opinion highlighted that in the context of democratic dynamics, this approach needs to be reviewed, especially if the norms being tested have a real impact on limiting political access for certain groups. The issue of the presidential threshold has long been the subject of criticism in the political and academic spheres because it is considered to benefit large parties and narrow the space for electoral democracy. Many argue that this system does not provide equal opportunities for small parties or independent candidates to advance in the presidential election contest. When the Court rejected the petition on formal grounds, the public question arose: to what extent can the Court be a guardian of democracy if access to test these limiting norms is blocked solely by procedural requirements?

In the context of a dynamic and evolving constitutional system, Decision 62/PUU-XXII/2024 is an important reflection of how the Court positions itself between maintaining legal order and protecting democratic values and citizens' constitutional rights. While the Court is not a policy-making institution, it plays a vital role as a guardian of the constitution, balancing formal legal interests with the constitutional needs of the people (Kurniawati & Rohmah, 2024). Constitutional Court Decision No. 62/PUU-XXII/2024 and the accompanying dissenting opinion affirm that the debate surrounding the presidential threshold is not merely an electoral political issue, but also a reflection of the battle of values within the practice of Indonesian constitutional law. The Constitutional Court is required to remain adaptive in addressing the complexity of constitutional issues and to uphold the principle of justice in safeguarding the spirit of democracy and citizens' rights (Kurniawati & Rohmah, 2024).

The constitutional impact of constitutional court decision number 62/PUU-XXII/2024

The Constitutional Court's (MK) Decision Number 62/PUU-XXII/2024 has had a significant impact on Indonesia's constitutional system, particularly in the area of judicial review and strengthening constitutional principles. This decision affirms the Constitutional Court's role as the guardian of the constitution, possessing not only the authority to interpret legal norms but also to balance the principles of legality and substantive justice. One important point emphasized in this decision is the strengthening of the concept of legal standing, or the legal standing of applicants in judicial reviews. The Court explicitly stated that not all citizens can directly submit a request for judicial review to the Constitutional Court unless the norm directly and clearly violates their constitutional rights. Thus, there are strict restrictions on who has the legitimacy to submit a request, thus ensuring that the judicial review process does not become a mere political tool (Lailam, 2016).

The consequence of this limitation is the maintenance of legal certainty in constitutional court practice, as well as an increase in the quality of legal arguments in each petition. In this context, the Constitutional Court emphasized that constitutional review cannot be used as a shortcut to challenge political policies that should be pursued through legislative mechanisms. Substantively, this decision has an impact on the design and mechanisms of the electoral system and presidential elections, particularly regarding the presidential threshold. In practice, the Constitutional Court did not overturn the threshold, but stated that changes to the presidential nomination system are not within the realm of constitutional review, but rather the responsibility of the lawmakers, namely the House of Representatives (DPR) and the government (Ghoffar, 2018). The Constitutional Court's stance demonstrates caution in maintaining the stability of the political system and ensuring the sustainability of a constitutionally based democratic system.

This decision also reinforces the principle of checks and balances, where the Constitutional Court does not usurp legislative authority but maintains that the legislative process does not deviate from constitutional values. In this regard, the Constitutional Court has demonstrated a careful and measured juridical-constitutional approach, in line with the principles of modern constitutional democracy (Harjono, 2008). In the long term, this ruling will also influence the design of laws and public policy, as it encourages lawmakers to be more careful in drafting regulations that have a broad impact on citizens' constitutional rights. Furthermore, the Constitutional Court not only carries out its judicial function but also bears an ethical responsibility as a guardian of constitutional justice. In this context, the Constitutional Court acts as a normative filter for legislative products, ensuring that every legal norm it reviews truly addresses aspects of human rights protection, democracy, and social justice (Nasoha et al., 2025).

Although the decision has drawn both pros and cons, particularly from civil society who want the presidential threshold removed to open up access to candidacy, the Constitutional Court remains committed to the principle of constitutional prudence. This demonstrates the Constitutional Court's role in balancing political dynamics with the need for national legal stability. Constitutional Court Decision No. 62/PUU-XXII/2024 not only serves as a reference in the practice of judicial review but also points the way to strengthening Indonesia's constitutional system based on the principles of law, democracy, and substantive justice. This approach is also in line with the spirit of constitutional morality developed by constitutional law experts, who emphasize that constitutional judges are not merely interpreters of legal texts but also shapers of constitutional ethics in a democratic and pluralistic society (Sunstein, 2001).

The Constitutional Court's (MK) Decision Number 62/PUU-XXII/2024 represents a significant turning point in the dynamics of Indonesian state administration. Previously, the Constitutional Court often prioritized a formal legalistic approach in assessing the legal standing of applicants. However, in this decision, the Constitutional Court demonstrated a shift in orientation toward a substantive approach based on the protection of citizens' constitutional rights. This approach can be seen in how the Constitutional Court elaborated Article 27 paragraph (1), Article 28D paragraph (1), and Article 28I paragraph (2) of the 1945 Constitution of the Republic of Indonesia (UUD 1945), which emphasizes the principles of equality, fair legal certainty, and protection of human rights (Mahkamah Konstitusi Republik Indonesia, 2024).

One implication of this change in approach is the opening of opportunities for similar petitions in the future. The Constitutional Court stated that legal standing is no longer determined strictly based on formal legal relationships alone, but also takes into account the real, direct impact on the applicant's constitutional rights. This provides broader judicial participation for civil society, including vulnerable groups affected by public policy. As explained by Wicaksono (2023), this decision reflects the Constitutional Court's increased sensitivity to the essence of substantive justice, not merely procedural justice (Wicaksono, 2023). This ruling also has direct implications for the design of the election system and legislation, particularly regarding the presidential threshold. The Constitutional Court emphasized that changes to these provisions cannot be simply implemented through

judicial channels but must go through a legitimate legislative process. Ghoffar (2018) explaining that this approach reflects respect for the supremacy of parliament in forming laws, while also emphasizing that the Constitutional Court is not a shadow legislative institution that can intervene in any public policy without strong constitutional legitimacy (Ghoffar, 2018).

Within the framework of constitutional theory, this ruling demonstrates the Constitutional Court's commitment to upholding the principle of checks and balances. By refusing to expand judicial authority beyond the context of testing norms against the 1945 Constitution without sufficient basis, the Constitutional Court avoids the trap of judicial overreach. Arifin (2022) stated that this approach is important to maintain balance between branches of power, where the judicial institution remains independent but does not exceed its constitutional limits (Arifin, 2022). Constitutional Court Decision No. 62/PUU-XXII/2024 also affirms that public participation in the judicial process is a crucial component in realizing constitutional democracy. On several occasions, the Constitutional Court has accepted legal opinions from third parties (*amicus curiae*) as a form of public participatory support. This step leads to a more open and inclusive judicial transformation, as outlined by Arifin (2022) in his analysis of judicial activism in Indonesia (Arifin, 2022). However, expanding access to the Constitutional Court also presents significant institutional challenges. The complexity of cases, socio-political dynamics, and demands for consistent decisions pose a significant test for the Constitutional Court in maintaining its institutional legitimacy. According to Diantika and Wibowo (2023), the Constitutional Court must strengthen its case management system and develop jurisprudence to remain adaptive yet consistent in its decisions. Without this, the potential for contradictions in decisions could undermine the Constitutional Court's credibility as the guardian of the constitution (Chayani & Wibowo, 2023).

The Constitutional Court's (MK) Decision No. 62/PUU XXII/2024 has significant consequences for Indonesia's constitutional system, particularly in terms of developing a paradigm for constitutional interpretation. This ruling has several key implications: the Constitutional Court demonstrates a significant shift from a formalistic, legalistic approach to a contextual approach that prioritizes substantive justice. The doctrine of the living constitution is further strengthened, viewing the constitution as a living document that must be interpreted dynamically according to the times and the needs of society (Butt, 2015). The inclusiveness of this interpretation broadens the meaning of legal standing, providing access for applicants who were previously constrained by formal limitations.

By limiting judicial authority to a more substantive paradigm while remaining grounded in constitutional rights, the Constitutional Court emphasizes its role as a guardian of the constitution, rather than a judicial legislator. This approach helps maintain a balance between the judicial, executive, and legislative branches in upholding the principle of the rule of law (*rechtstaat*) (Pompe, 2005). However, a contextual approach poses serious challenges to legal certainty. The broader the scope of constitutional interpretation and rights, the greater the potential for differing interpretations from case to case. This can lead to legal uncertainty, reduce regulatory predictability, and undermine the stability of a country's legal system (Siddiq & Salam, 2025).

Expanding constitutional access requires the Constitutional Court's institutional readiness. The complexity of constitutional litigation demands that the Court maintain consistency in its jurisprudence, strengthen case management, and clarify the basis for its decisions to avoid interpretive conflicts between decisions (Chayani & Wibowo, 2023). The Constitutional Court's contextual approach provides added value by protecting citizens' constitutional rights, but at the same time requires careful consideration in maintaining a balance between substantive justice and legal certainty. Implementation of the principle of a living constitution must be accompanied by legal consistency, institutional accountability, and transparency. This is crucial so that the Constitutional Court becomes not only a moral symbol of the constitution, but also an element of legal stability and democracy trusted by the public.

Constitutional Court (MK) Decision Number 62/PUU-XXII/2024 carries profound political implications for Indonesia's constitutional system, particularly regarding the issue of the presidential threshold, or the threshold for presidential and vice-presidential nominations. In a multiparty system like Indonesia, the existence of a threshold of 20 percent of DPR seats or 25 percent of the national vote in legislative elections is often criticized for being perceived as limiting the political rights of small or medium-sized parties in the process of nominating national leaders. In this context, the judicial review of this regulation reflects the Court's attempt to reassess the fairness and constitutional relevance of these restrictions, and emphasizes that democracy must open up a more inclusive and equitable space for participation (Butt, 2015).

This ruling indirectly challenges the dominance of large parties that have historically controlled the presidential nomination process, and opens up space for coalitions or smaller parties to nominate candidates

without excessive administrative barriers. The Court appears to be adopting a progressive constitutional approach to promote a more open and democratic political system. This is also in line with the principles of deliberative democracy, which emphasize participation, representation, and pluralism (Asshiddiqie, 2006). However, the Court's intervention in the legislative sphere, particularly regarding threshold policies resulting from political compromises in parliament, has the potential to create tensions between state institutions. This touches on classic issues in modern constitutional theory, namely the principle of separation of powers and the mechanism of checks and balances. When the Court is deemed to have intruded too far into the realm of public policy or legal politics, the legitimacy and authority of the House of Representatives (DPR) as a legislative body directly elected by the people may be questioned (Mietzner, 2011).

On the one hand, the Court's decision strengthens the role of the judicial institution as the guardian of the constitution, but on the other hand, the decision also raises concerns about the judicialization of politics, where the judicial institution becomes too deeply involved in the political arena which should be the domain of the executive and legislative branches (Pompe, 2005). This tension demonstrates the importance of balancing judicial independence with respect for other institutional domains to maintain the harmony and effectiveness of the constitutional system. Furthermore, the Constitutional Court's decision also contributes to a new dynamic in the process of legal norm formation. It serves not only as a constitutional watchdog but also as an active actor in the transformation of Indonesia's democratization. Therefore, this decision sets an important precedent in assessing the validity of legal norms derived from political compromise, while also serving as a reminder that the constitution should not be compromised by momentary interests (Crouch, 2010).

Review of the *siyasah qada'iyyah* on constitutional court decision number 62/PUU-XXII/2024

Constitutional Court Decision No. 62/PUU XXII/2024 opens up opportunities for an integrative study of Islamic legal principles and modern legal systems. Within the framework of *Siyasah Qada'iyyah*, the principles of 'adl, legal certainty, and *maslahah* serve as the primary guidelines for guiding constitutional justice (Alexander et al., 2025). As explained by Rizky et al. (2025), *siyasah fiqhiyyah* provides a normative framework for government that is fair, in accordance with sharia, and supports the public benefit (Rizky et al., 2025). Nur Zulfahmi (2023) emphasized that justice and legal certainty according to Imam Shâtîbî are the foundations of *maqâsid al syarî'ah*, which must be maintained in every modern state regulation (Nur, 2023). Apart from that, Alexander (2025) explains that the state, according to the perspective of *fiqh siyasah*, must exercise power that makes the benefit of the people the main goal, based on justice and human rights (Alexander et al., 2025). Furthermore, the perspective of *siyasah qada'iyyah* according to Arma Agusti (2024) clarifies that legal certainty and protection of constitutional rights are an integral part of judicial politics in Islam (Agusti, 2024).

The Constitutional Court's (MK) ruling regarding the limits of judicial review of legal norms, particularly those related to citizens' constitutional rights, has significant implications for the Indonesian constitutional law landscape. This ruling clearly clarifies that the Constitutional Court only has the authority to review legal norms that directly impact individual constitutional rights. Norms that are procedural in nature or related to institutional arrangements that do not confer direct rights on citizens cannot be subject to constitutional review. This is in accordance with the principle of limited popular action adopted in the Indonesian legal system, whereby a request for judicial review of a law must be based on concrete and actual legal standing, not abstract or speculative (Asshiddiqie, 2010; Kurniawati & Rohmah, 2024).

From the perspective of *Siyasah Qada'iyyah*, or judicial politics in the tradition of Islamic political thought, this decision reflects the Court's caution in carrying out its judicial role. *Siyasah Qada'iyyah* emphasizes the importance of justice, legal certainty (*al-'adl wa al-istiqrar al-qanuni*), and public welfare (*maslahah 'ammah*) as the main objectives of the exercise of judicial power (Kamali, 2008). In this context, the Constitutional Court ensures that it does not exceed the limits of its authority stipulated in the constitution, which, if violated, could lead to judicial overreach or an excessive expansion of judicial power. Furthermore, within the broader framework of *siyasa*, this caution is essential to maintaining the balance of power between the executive, legislative, and judicial branches in a democratic constitutional system.

The principles of *ta'awun* (cooperation) and *muwâzanah* (balance) in Islamic politics emphasize the importance of a fair distribution of power in order to prevent the emergence of domination of one institution over another (Syadzali, 1993). Therefore, the Constitutional Court's move to refrain from intervening in legislative and executive policy areas that do not directly impact citizens' constitutional rights is a form of implementation of the principle of *hifz al-huqûq wa al-masâlih* (protection of rights and interests). This decision also confirms that although the Constitutional Court has a crucial role in maintaining the constitutionality of legal norms, this power

is not without limits. Thus, the Court carries out its constitutional oversight function proportionally and remains within the principle of checks and balances, a key pillar of a democratic state under the rule of law.

The *Siyasah Qadaiyyah* emphasizes that judges must not only interpret the law textually, but also consider the social, political, and moral impacts of the decisions they make. The principle of *Al-Muwazana*, which is the basis of the *Siyasah Qadaiyyah*, demands a balance between rights and obligations, as well as between individual interests and the public interest. Every legal decision must consider the interests of all elements of society in order to create harmony and stability in the life of the nation and state (Syarifuddin, 2014). This Constitutional Court decision has direct implications for future legal policymaking. Legislators and lawmakers are expected to be more careful in formulating norms, particularly those related to the electoral and presidential election mechanisms. If not careful, these norms could trigger constitutional disputes that could potentially disrupt national stability. In the context of *Siyasah Qadaiyyah*, this demonstrates the importance of more prescriptive and inclusive legal planning, which considers not only legal aspects but also substantial justice for all members of society (Syarifuddin, 2014).

While intended to uphold constitutional supremacy, limiting the right to judicial review of certain norms can pose challenges in terms of oversight of state officials. Limited opportunity for the public to file judicial reviews of norms deemed important can create an imbalance of power, particularly in the oversight of public policy (Asshiddiqie, 2010). In *Siyasah Qadaiyyah* (Islamic judicial politics), the principles of deliberation (*shura*) and oversight (*hisbah*) are essential foundations for preventing inequality and abuse of power in the state's decision-making process. These two principles aim to maintain substantive justice, which is not only oriented toward formal legality but also upholds humanitarian values, social balance, and a commitment to the public interest.

Within this framework, the Constitutional Court (MK) Decision Number 62/PUU-XXII/2024 serves as a reminder that not all norms in the legal system can be immediately made the object of constitutional testing, especially norms of a procedural or institutional nature that are not directly related to the constitutional rights of citizens (Mahkamah Konstitusi Republik Indonesia, 2024). The Constitutional Court's cautious stance reflects its efforts to maintain the limits of its authority and avoid excessive expansion of judicial power. From the perspective of *Siyasah Qadaiyyah*, this is part of the *tahkim* (balance of power) mechanism, which is in line with the value of justice in Islam. The principle of *الموازنة* (*al-muwazana* / balancing) and the principle of *لا ضرر ولا ضرار* ("*la darara wa la dirara*" – there must be no harm and no mutual harm) are highly relevant in this regard. This principle teaches that every policy or legal norm must consider its impact on social justice and human rights (Al-Qaradāwī, 2001).

In the context of judicial review, the principle of "*la darara wa la dirara*" serves as an ethical and normative guideline for criticizing legal norms that restrict citizens' rights, such as the right to nominate or be nominated in elections. Restrictive norms without a strong and rational constitutional basis have the potential to create political inequality, thus contradicting the essence of substantive justice upheld in Islamic law and modern constitutions (Asad, 2003; Kamali, 2008). The Constitutional Court's decision can also be linked to the views of the Qur'an, especially Surah An-Nisa verse 58, which emphasizes the importance of justice and integrity in exercising judicial power:

يَسْتَحْفُونَ مِنَ النَّاسِ وَلَا يَسْتَحْفُونَ مِنَ اللَّهِ وَهُوَ مَعَهُمْ إِذْ يُبَيِّتُونَ مَا لَا يَرْضَى مِنَ الْقَوْلِ وَكَانَ اللَّهُ بِمَا يَعْمَلُونَ مُحِيطًا ﴿١٠٨﴾

"They can hide from people, but they cannot hide from Allah. He was with (supervised) them when at night they made a secret decision that He did not approve of. Allah is all-encompassing in what they do." (QS. An-Nisa: 58, Also see: (Al-Qur'an, 2022).

The Constitutional Court (MK) of the Republic of Indonesia not only serves as the guardian of constitutional supremacy, but also plays a crucial role in maintaining moral and ethical integrity within the national legal system. In this context, the Constitutional Court acts as a protector of basic constitutional values, including the principle of substantive justice that aligns with universal moral values and Islamic law. This strengthens the Constitutional Court's position as an institution that relies not only on normative legality but also on the moral and spiritual legitimacy of law. In Islam, the principle of justice (*al-'adalah*) holds a central position, as affirmed in the Qur'an: "Indeed, Allah commands (you) to act justly and to do good..." (QS. An-Nahl: 90). This verse demonstrates that

the law must be an instrument for upholding social justice and protecting the collective welfare of society. (Al-Qaradāwī, 2001).

As a concrete example, Constitutional Court Decision Number 62/PUU-XXII/2024 affirms the Constitutional Court's commitment to maintaining the constitutional limits of state institutions' authority. In this decision, the Constitutional Court rejected the expansion of authority without a clear constitutional basis and emphasized the importance of the principle of checks and balances in the state system. This approach aligns with the doctrine of *Siyasah Qada'iyyah*, an Islamic concept of justice that emphasizes the balance of power and the need for judges (*qadi*) to carry out judicial functions based on the principles of substantive justice and legal morality (Al-Qaradāwī, 2001; F. Rahman, 1984). *Siyasah Qada'iyyah* requires that the court is not just a formal legal institution, but also an arena for fighting for true justice, including social, economic and political justice (Kamali, 2008). In the context of a democratic state like Indonesia, this role is increasingly complex because it must accommodate a plurality of laws and values, including customary law, positive law, and religious values. Therefore, the Constitutional Court's decisions must always take into account applicable positive legal norms, constitutional principles, and the values of public morality that exist within society.

However, the Constitutional Court's ethical and moral role will only be effective if supported by strong public participation mechanisms and democratic oversight. Openness of the judicial process, involvement of civil society, and transparency of decisions are crucial instruments to ensure that the value of justice is not only a normative ideal but also truly felt by the people. This aligns with the concept of *al-maslahah al-'ammah* (the public good), which is a key principle in the theory of *maqasid al-shari'ah* (the goals of Islamic law), namely realizing justice, benefit, and protection for all levels of society (Auda, 2008). Thus, the Constitutional Court is not merely the guardian of the constitutional text, but also the protector of the values of substantive justice. The balance between positive law and universal values of justice, both derived from the constitution and sharia, is the primary foundation for the legitimacy of the Constitutional Court's decisions. Integrating these values is crucial for strengthening a legal system that is not only procedurally just but also substantively just.

4. CONCLUSION

Constitutional Court Decision Number 62/PUU-XXII/2024 is a significant moment in the development of Indonesian constitutional law, which annulled Article 222 of Law No. 7/2017 concerning the presidential threshold because it was deemed to be in conflict with the 1945 Constitution. This decision highlights the tension between the formal-legal approach and substantive justice, and demonstrates the importance of inclusiveness and political participation in democracy. The differences of opinion among the judges reflect the dynamics of interpretation of a living constitution and the importance of the Court as a guardian of the constitution that is adaptive to social and political developments, without neglecting the principles of justice and the constitutional rights of citizens. Constitutional Court Decision No. 62/PUU-XXII/2024 has had a significant impact on the dynamics of Indonesian law and state politics because it marks a shift from a formal legal approach to substantive justice, by affirming the protection of citizens' constitutional rights through strengthening the principle of legal standing. This decision not only sets a precedent for similar petitions that were previously rejected, but also encourages legislators to be more careful in drafting laws to align with the principles of constitutionalism. Its impact extends to the electoral system and the presidential threshold, and has the potential to create tensions between state institutions due to the Court's broadening of constitutional interpretation. Overall, this decision confirms the Constitutional Court as a guardian of the constitution that is adaptive to changing times, while also balancing in maintaining justice, legal certainty, and democratic principles. Constitutional Court Decision Number 62/PUU-XXII/2024 reflects the integration of modern constitutional principles and the values of *Siyasah Qada'iyyah*, in which the Court affirms the constitutional limits of its authority while upholding the principles of substantive justice, the balance of power, and the public interest. By clarifying the object of review to only include norms that directly impact citizens' constitutional rights, the Constitutional Court demonstrates a cautious attitude in line with the principles of *Al-Muwazanah*, namely maintaining a balance between rights and obligations and individual and collective interests. This decision also serves as a reminder that law is not merely an instrument of legality, but must reflect the values of social justice as emphasized in the Qur'an, Surah An-Nisa, verses 105 and 58. Within the framework of *Siyasah Qada'iyyah*, this Constitutional Court decision demands that legislators be more inclusive and oriented towards the public interest, while ensuring public participation and democratic oversight so that the law truly becomes a means of realizing justice for all people.

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