



A CONSTITUTIONAL-ETHICAL STUDY OF THE INDONESIAN CONSTITUTIONAL COURT DECISION NUMBER 62/PUU-XXII/2024 ON THE CONSTITUTIONALITY REVIEW OF THE PRESIDENTIAL THRESHOLD

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Received: 02/04/2026 | Revised: 04/05/2026 | Accepted: 11/06/2026 | Published: 03/07/2026

Abstract

The Indonesian Constitutional Court Decision Number 62/PUU-XXII/2024 was not the first attempt by petitioners to challenge the constitutionality of the presidential threshold. From 2004 to 2023, the Court had examined at least 46 cases concerning the presidential threshold, most of which were declared inadmissible, rejected, partially granted, or withdrawn by the petitioners. This raises an important question: what considerations led the Court to change its constitutional stance on the presidential threshold? This study aims to examine the ratio decidendi of Constitutional Court Decision Number 62/PUU-XXII/2024 and to analyze its ethical-constitutional dimensions. This research employs normative legal research methods using statutory, case, and conceptual approaches. The findings show, first, that the ratio decidendi of the decision rests on the protection of the constitutional rights of political parties participating in elections, the guarantee of citizens' political rights to vote and to be elected, and the purification of presidentialism through the strengthening of the checks and balances system in Indonesia. Second, the Court reconstructed its constitutional reasoning on the presidential threshold by taking into account the moral principles embedded in the Constitution. Its considerations regarding the political rights of citizens and political parties, as well as the logical fallacies underlying the presidential threshold, indicate that eliminating the threshold may strengthen rather than weaken Indonesia's presidential system.

Keywords: Constitutional Court; Constitutional Ethics; Presidential Threshold; Ratio Decidendi; Political Rights.

INTRODUCTION

Conceptually, the presidential threshold refers to the minimum requirement of parliamentary seats or valid national votes that must be obtained by a political party or a coalition of political parties in order to nominate presidential and vice-presidential candidates. In Indonesia, this requirement has been justified by lawmakers on the basis of Article 6A paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which provides that presidential and vice-presidential candidates shall be nominated by political parties or coalitions of political parties participating in the general election. However, the constitutional meaning of this provision has long been contested because the text of the Constitution does not explicitly prescribe any numerical threshold for nomination. This debate shows that the presidential threshold is not merely a technical electoral requirement, but a constitutional instrument that directly affects political participation, electoral justice, and the configuration of presidential democracy. Previous scholarship has also emphasized that the threshold must be examined within the broader framework of electoral justice, rather than merely as an administrative mechanism for managing presidential nominations (Sabrina & Ristawati, 2020). Historically, the presidential threshold was first regulated in Article 5 paragraph (4) of Law Number 23 of 2003 on the Election of the President and Vice President. This provision stipulated that a presidential and vice-presidential candidate pair could be nominated by a political party or a coalition of political parties that obtained at least 15% of the total seats in the House of Representatives (Dewan Perwakilan Rakyat or DPR) or 20% of the valid national votes in the legislative election for DPR members. Nevertheless, Article 101 of the transitional provisions set a different threshold for the 2004 presidential election, namely 3% of DPR seats or 5% of valid national votes

obtained in the 2004 legislative election. This transitional arrangement demonstrates that the presidential threshold was initially introduced as a flexible electoral policy rather than as a fixed constitutional command. The early adoption of a lower threshold also indicates that the main concern at the beginning of Indonesia's direct presidential election was not strict limitation of candidacy, but institutional adaptation to a new electoral model following constitutional reform.

The second regulatory phase was marked by Article 9 of Law Number 42 of 2008 on the Election of the President and Vice President, which revoked Law Number 23 of 2003. This law substantially increased the threshold by requiring political parties or coalitions of political parties to obtain at least 20% of DPR seats or 25% of valid national votes in the legislative election. This arrangement became the legal basis for the 2009 and 2014 presidential elections. The same threshold was later maintained for the 2019 and 2024 presidential elections through Article 222 of Law Number 7 of 2017 on General Elections, which revoked Law Number 42 of 2008. From this point, the presidential threshold became a stable feature of Indonesia's electoral law. Yet its stability did not eliminate constitutional controversy. Instead, the persistence of the threshold strengthened criticism that the mechanism had shifted from an instrument of electoral management into a structure of political exclusion, particularly because it linked presidential nomination to the parliamentary configuration produced by a previous legislative election.

The main constitutional problem lies in the tension between the stated objective of strengthening presidentialism and the practical effect of narrowing the space for political competition. The presidential threshold has often been defended as a mechanism to simplify the party system, prevent excessive candidacy, and ensure sufficient parliamentary support for the elected president. However, empirical and doctrinal criticism has questioned the validity of this assumption. Sukmawan argues that the presidential candidacy threshold is not directly related to increasing political support for the elected president and does not effectively reduce the number of political parties (Sukmawan, 2023). In a multiparty presidential system, parliamentary support for the president is not determined solely by pre-election nomination thresholds, but also by post-election coalition dynamics, party discipline, legislative bargaining, and the political incentives of parties within parliament. This means that the threshold may restrict candidacy without necessarily producing the governmental stability it promises.

For two decades, the presidential threshold survived constitutional review and legitimized five direct presidential elections since 2004. Nevertheless, the Constitutional Court Decision Number 62/PUU-XXII/2024 marked a decisive turning point in the constitutional trajectory of presidential nomination in Indonesia. In this decision, the Court declared that the presidential threshold for nominating presidential and vice-presidential candidates was contrary to the 1945 Constitution and had no binding legal force. This ruling requires lawmakers to undertake constitutional engineering of Law Number 7 of 2017, particularly in designing a new nomination framework that remains compatible with constitutional democracy, political rights, people's sovereignty, and the presidential system. Saleh et al. argue that the unconstitutionality of the presidential threshold has legal implications for strengthening the actualization of people's sovereignty, limiting the dominance of certain political parties in the nomination process, expanding the right to vote and to be elected, and requiring amendments to the electoral law in accordance with the Court's constitutional reasoning (Saleh et al., 2025).

The importance of Constitutional Court Decision Number 62/PUU-XXII/2024 becomes clearer when placed within the long history of constitutional litigation over the presidential threshold. This decision was not the first attempt by citizens, political actors, or petitioners to challenge the constitutionality of the threshold. From 2004 to 2023, numerous petitions had been submitted to the Court, but most were declared inadmissible, rejected, partially granted, or withdrawn by the petitioners. This pattern shows that the Court had long maintained judicial restraint by treating the presidential threshold as an open legal policy of lawmakers. However, Decision Number 62/PUU-XXII/2024 changed this constitutional posture. The Court no longer viewed the threshold merely as a matter of legislative discretion, but as a constitutional issue affecting political equality, the right of political parties to nominate candidates, and citizens' right to meaningful electoral alternatives. Sabillilah argues that the presidential threshold restricts political participation by marginalizing smaller parties, encouraging elite-driven coalitions, and undermining electoral justice (Sabillilah, 2026).

This shift raises an important academic question: what constitutional considerations led the Court to depart from its previous jurisprudence on the presidential threshold? The question is not only doctrinal, but also ethical. The Court's reasoning in Decision Number 62/PUU-XXII/2024 suggests that constitutional adjudication cannot be separated from the moral principles embedded in the Constitution, including political equality, fairness, people's sovereignty, and protection against institutionalized exclusion. The presidential threshold may appear formally neutral because it applies to all political parties. Yet, in practice, it produces unequal access to nomination by privileging large parties and compelling smaller parties to depend on elite coalitions. This is where the ethical

dimension of constitutional interpretation becomes relevant. The Court's decision reflects an effort to reconnect constitutional text with constitutional morality, particularly by reassessing whether a legal policy that limits candidacy can still be justified when it weakens political rights and narrows democratic competition.

After the annulment of the presidential threshold, the constitutional debate does not end with the elimination of Article 222 of Law Number 7 of 2017. A new issue emerges concerning how lawmakers should design a nomination system that prevents excessive fragmentation without reviving unconstitutional barriers to political participation. Siboy and Al-Fatih argue that the absence of a clear regulatory model after the annulment of the presidential threshold may create a regulatory vacuum, potentially leading to political fragmentation, polarization, and procedural inefficiency if not addressed through a constitutionally sound framework (Siboy & Al-Fatih, 2025). This concern shows that the post-threshold electoral design must balance democratic openness with institutional governability. However, such balance cannot be achieved by restoring the same exclusionary logic that the Court has declared unconstitutional. The future design of presidential nomination must instead be grounded in constitutional morality, electoral justice, and a more inclusive understanding of presidential democracy.

Based on these considerations, this article examines the ratio decidendi and ethical-constitutional dimensions of Constitutional Court Decision Number 62/PUU-XXII/2024. The analysis focuses on two interrelated issues. First, it investigates the constitutional reasoning underlying the Court's shift from its previous position that regarded the presidential threshold as an open legal policy to its new position that considers the threshold unconstitutional. Second, it analyzes the ethical foundation of the decision, particularly how the Court used constitutional morality to reassess the relationship between political rights, party nomination, people's sovereignty, and the strengthening of the presidential system. By situating the decision within the broader discourse on constitutional ethics, this article argues that Decision Number 62/PUU-XXII/2024 should not be understood merely as the abolition of a numerical threshold, but as a reconstruction of the constitutional foundation of presidential nomination in Indonesia.

LITERATURE REVIEW

A. Constitutionalism

Constitution and constitutionalism are two closely related concepts that mutually reinforce each other. Literally, a constitution refers to the fundamental rules and principles governing the organization of the state. Etymologically, the term constitution derives from the French word *constituer*, which means "to establish" or "to form." In this sense, a constitution is associated with the formation of a state and the legal-political framework through which state authority is organized. Constitutionalism, however, has a more substantive meaning. It refers to the doctrine that state power must be limited by the constitution and that the rights of the people must be guaranteed through constitutional norms and institutions (Yuliandri, 2018). Thus, constitutionalism does not merely require the existence of a written constitution, but also demands that constitutional norms operate as effective limits on political power.

Carl J. Friedrich, in *Constitutional Government and Democracy*, explains that constitutionalism contains the idea that government conducted by and on behalf of the people must be subject to certain limitations. These limitations are intended to ensure that power is not abused by those entrusted with governing authority (Marzuki, 2010). This conception places constitutionalism at the center of modern constitutional democracy, because democratic legitimacy alone is insufficient if political power is not accompanied by constitutional restraint. In this framework, elections, political parties, and representative institutions are not free from constitutional limits. They must operate within a constitutional order that protects political equality, prevents domination, and guarantees meaningful participation. Contemporary studies on constitutional law and human rights also affirm that constitutional law is not only concerned with the structure of state institutions, but also with the protection and realization of human rights within the constitutional order (Sugirman, 2025).

Constitutionalism is essentially a theory of statehood that protects human rights through institutionalized mechanisms. It requires the establishment of state institutions whose powers are distributed and limited within a system of government designed to safeguard those rights. In this sense, constitutionalism rests on two interrelated foundations: the protection of fundamental rights and the limitation of state power. The principle of limited government in constitutionalism supports the realization of justice because state authority is not absolute. It is constrained by constitutional norms and by basic moral principles that precede and limit the exercise of political power. Madjid and Akbar argue that state power must not exceed matters that are naturally inherent in human beings, commonly understood as human rights (Madjid & Akbar, 2023). This understanding is important in constitutional adjudication because laws enacted through democratic procedures may still be unconstitutional if they restrict rights without sufficient constitutional justification.

In the context of the presidential threshold, constitutionalism provides a critical framework for assessing whether legislative policy may limit the right of political parties to nominate presidential and vice-presidential candidates and the right of citizens to obtain meaningful electoral alternatives. The presidential threshold may be defended as a legal policy aimed at strengthening presidentialism. However, constitutionalism requires that such policy be examined not only from the perspective of institutional efficiency, but also from the perspective of rights, equality, and constitutional limits. A law that narrows political competition and concentrates nomination power in the hands of major political parties may create an imbalance between electoral management and democratic inclusion. This is why the debate on the presidential threshold cannot be reduced to a question of legislative discretion. It must be situated within the broader constitutional question of whether the state may design electoral rules that limit political rights and democratic participation.

The consensus that sustains constitutionalism in the modern state generally rests on three elements. First, there must be agreement on the general goals of society or the accepted philosophy of government. Second, there must be agreement on the rule of law as the basis of government. Third, there must be agreement on the form of constitutional institutions and procedures (Madjid & Akbar, 2023). These three elements are relevant to the Indonesian constitutional system after constitutional amendment. The general goal of the state is reflected in the constitutional commitment to democracy, people's sovereignty, social justice, and protection of rights. The rule of law requires that every exercise of public authority, including electoral regulation, be subject to constitutional review. Meanwhile, constitutional institutions and procedures require a design that ensures political competition remains fair, inclusive, and consistent with the presidential system.

Within this framework, the Constitutional Court plays a central role in maintaining constitutionalism. The Court is not merely a negative legislator that annuls unconstitutional norms, but also an institution that preserves the moral and normative coherence of the Constitution. Recent scholarship on constitutional morality in Indonesia emphasizes that Constitutional Court decisions must be understood not only as legal products, but also as ethical-constitutional instruments for protecting judicial independence, constitutional supremacy, and democratic values (Lailam, 2020; Salsabila et al., 2024). This perspective is particularly relevant to Constitutional Court Decision Number 62/PUU-XXII/2024. The decision reflects a shift from viewing the presidential threshold as an open legal policy to treating it as a constitutional issue affecting political rights, equality of political parties, and the substance of people's sovereignty.

B. The Nature of Law and Natural Law Theory

The question of what law is cannot be separated from the moral foundation of legal authority. Thomas Aquinas, in *On Law, Morality, and Politics*, defines law as a rule and measure of action that directs human beings to act or restrains them from acting. The Latin term *lex*, meaning law, is associated with *ligare*, which means "to bind." Law therefore binds individuals to act in accordance with reason. For Aquinas, reason is the primary source of human action because it directs human beings toward their proper ends, especially the pursuit of a good life. Since reason determines the ends of human life and the means to achieve them, law belongs to the domain of reason (Ujan, 2009). This view shows that law is not merely a command backed by authority, but a rational order directed toward moral purposes.

Aquinas further explains that the ultimate concern of practical reason is the ultimate end of human beings, namely happiness or *eudaimonia*. Law, as a product of reason, is therefore related to the ordering of all things toward the achievement of human flourishing. In its strict sense, law must create order, but not every order is morally valid. Legal order becomes meaningful only when it is directed toward the common good or *bonum commune* (Ujan, 2009). This understanding distinguishes law from arbitrary command. A legal norm may be formally valid because it is enacted by an authorized institution, but its legitimacy depends on whether it serves the common good. Contemporary discussions of natural law also affirm that natural law theory links law, morality, practical reason, and the common good, making it relevant for evaluating whether positive law is consistent with fundamental moral principles (Murphy, 2025).

Natural law theory is important for constitutional analysis because it provides an ethical foundation for assessing positive law. In a constitutional state, legislation cannot be understood only as the product of political compromise or majority decision. It must also be evaluated according to higher principles embedded in the Constitution, such as justice, equality, human dignity, and the common good. When a statutory norm restricts political rights, the question is not merely whether lawmakers had the authority to enact it, but whether the restriction can be justified in light of constitutional morality. The presidential threshold illustrates this issue. Although the threshold was enacted through legislation and repeatedly defended as a matter of electoral policy, its constitutional

validity depends on whether it advances the common good or instead privileges elite political interests by limiting access to candidacy and narrowing democratic choice.

From the perspective of natural law, the common good cannot be equated with the interest of dominant political parties or the convenience of electoral administration. The common good requires a legal order that enables citizens and political actors to participate fairly in the democratic process. A nomination threshold that substantially restricts political parties from proposing presidential candidates may produce legal order, but such order may lack moral legitimacy if it weakens political equality and suppresses constitutional rights. In this sense, natural law theory helps explain why Constitutional Court Decision Number 62/PUU-XXII/2024 contains not only doctrinal reasoning, but also ethical reasoning. The Court's reassessment of the presidential threshold reflects the idea that positive law must remain subject to constitutional morality and must be oriented toward the common good of constitutional democracy.

The relationship between constitutionalism and natural law becomes visible in the ethical dimension of constitutional adjudication. Constitutionalism limits power through constitutional norms, while natural law provides a moral basis for determining whether those norms and the laws enacted under them are directed toward justice and the common good. In the context of the presidential threshold, these two perspectives converge. Constitutionalism questions whether lawmakers may use statutory authority to restrict political rights and democratic competition. Natural law questions whether such restriction can be morally justified as serving the common good. Together, they provide a theoretical foundation for understanding why the Constitutional Court eventually departed from its previous jurisprudence and declared the presidential threshold unconstitutional. The decision can therefore be read as an effort to restore the constitutional balance between legal authority, political rights, democratic participation, and ethical governance.

Based on this literature, this article positions Constitutional Court Decision Number 62/PUU-XXII/2024 within the intersection of constitutionalism and natural law theory. Constitutionalism explains the need to limit legislative discretion when it restricts political rights and electoral participation. Natural law theory explains why positive law must be assessed according to reason, justice, and the common good. These two theoretical frameworks are essential for analyzing the ratio decidendi and ethical-constitutional dimensions of the decision. The abolition of the presidential threshold is therefore not merely a technical change in electoral law. It represents a constitutional correction of a legal policy that had long been justified in the name of presidential stability, but was ultimately found to be inconsistent with political equality, people's sovereignty, and the moral foundations of constitutional democracy.

METHOD

This study employs normative legal research to examine the ratio decidendi and ethical-constitutional dimensions of the Indonesian Constitutional Court Decision Number 62/PUU-XXII/2024 concerning the constitutionality of the presidential threshold. Normative legal research is used because the object of this study is legal norms, constitutional principles, court decisions, and doctrinal arguments related to presidential nomination in Indonesia. This research applies three approaches: the statutory approach, the case approach, and the conceptual approach. The statutory approach is used to analyze the relevant constitutional and legislative provisions, particularly Article 6A paragraph (2) of the 1945 Constitution of the Republic of Indonesia, Law Number 23 of 2003, Law Number 42 of 2008, and Law Number 7 of 2017 on General Elections. The case approach is employed to examine Constitutional Court Decision Number 62/PUU-XXII/2024 and previous Constitutional Court decisions concerning the presidential threshold. Meanwhile, the conceptual approach is used to construct the theoretical framework of constitutionalism, constitutional ethics, natural law, political rights, and the presidential system. The legal materials consist of primary legal materials, including constitutional provisions, statutes, and Constitutional Court decisions, as well as secondary legal materials, including books, journal articles, and relevant academic literature. These materials are analyzed qualitatively through legal interpretation, doctrinal analysis, and systematic reasoning in order to identify the constitutional meaning and ethical foundation of the Court's decision.

RESULTS AND DISCUSSION

A. The Ratio Decidendi of the Indonesian Constitutional Court Decision Number 62/PUU-XXII/2024

Indonesian Constitutional Court Decision Number 62/PUU-XXII/2024 represents a decisive constitutional turning point in the judicial review of the presidential threshold. For almost two decades, the Court generally positioned the presidential threshold as an open legal policy of lawmakers. Through this decision, however, the Court reconstructed its constitutional reasoning by examining the presidential threshold not merely as a technical electoral

policy, but as a constitutional issue concerning political rights, the role of political parties, the meaning of people's sovereignty, and the proper design of presidentialism in Indonesia. Based on the Court's reasoning, the ratio decidendi of the decision rests on three interconnected foundations: the fulfillment of the constitutional rights of political parties participating in elections, the protection of citizens' right to vote and right to be elected, and the purification of presidentialism through the strengthening of the checks and balances system.

The first foundation concerns the constitutional rights of political parties participating in elections. Political parties are not merely electoral vehicles for nominating presidential and vice-presidential candidates, but also institutions through which citizens exercise their political rights, including freedom of association, political participation, political recruitment, and the aggregation of public interests. In a democratic system, political parties function as a bridge between citizens and state power. Schattschneider's view that political parties are essential to the creation of democracy confirms that modern democratic government cannot be meaningfully organized without political parties (Eddyono, 2017). The presidential threshold, however, creates a constitutional paradox: political parties are recognized as election participants, yet they are not equally entitled to nominate presidential and vice-presidential candidates. This restriction weakens the constitutional position of political parties and concentrates nomination power in the hands of parties with large parliamentary representation.

The Court's reasoning is also closely related to the original intent of Article 6A of the 1945 Constitution. The constitutional amendment debates show that the central issue in designing the presidential election system was whether the President and Vice President should be elected indirectly by the People's Consultative Assembly or directly by the people. During the amendment process, the members of the Assembly ultimately agreed to establish direct presidential elections as part of the effort to strengthen the presidential system and deepen democratic legitimacy (Mahkamah Konstitusi Republik Indonesia, 2010). The constitutional debates did not specifically discuss the presidential threshold as a requirement for nomination. The limitations expressly formulated in Article 6A were related to the mechanism of election and the distribution of votes, not to a numerical threshold for political parties. This confirms that the presidential threshold was not a constitutional command, but a statutory policy introduced by lawmakers after the constitutional amendment.

Although legislative policy is necessary to implement constitutional provisions in a more technical form, such policy cannot depart from the constitutional meaning of the provision being implemented. In its previous decisions, the Constitutional Court tended to grant lawmakers broad discretion to regulate the presidential threshold under the doctrine of open legal policy. This approach may be justified insofar as electoral design requires legislative choices. However, open legal policy cannot be interpreted as unlimited authority. When a statutory policy restricts political rights, narrows democratic competition, or privileges certain political groups, it must be subject to constitutional review. Decision Number 62/PUU-XXII/2024 is significant because the Court no longer treated the presidential threshold as a purely technical matter, but as a constitutional issue affecting the equal rights of political parties and the substance of democratic participation.

The second foundation of the Court's ratio decidendi concerns the right to vote and the right to be elected as citizens' political rights. Democracy provides a constitutional space for the protection of human rights, the development of rational public life, and the formation of accountable government (Nurjahjo, 2006). In Indonesia, democracy must also be understood in relation to the plural character of society. Indonesian democracy is not merely a set of institutional procedures, but also a social reality that must be reflected in constitutional structures and electoral mechanisms (Asshiddiqie, 2011). The presidential threshold reduces the range of electoral alternatives available to citizens because it prevents political parties from nominating candidates unless they meet a certain parliamentary or vote-based requirement. As a result, citizens' right to vote becomes less meaningful because the electoral contest is shaped by elite coalition bargaining rather than by equal access to candidacy.

The right to vote and the right to be elected are essential components of political freedom. In the classification of human rights developed by Karel Vasak, political rights belong to first-generation rights, which emerged historically as protections against absolutism and arbitrary power (Smith, 2008). These rights are not fulfilled merely by holding periodic elections. They require a fair and open electoral process that provides meaningful choices and equal opportunities for political actors to compete. A legal rule that excessively limits presidential candidacy may formally regulate elections, but it simultaneously weakens the substantive dimension of political rights. In this sense, the presidential threshold affects not only political parties, but also citizens as holders of sovereignty. The Court's decision therefore reflects a rights-based interpretation of the presidential election system.

The third foundation concerns the purification of presidentialism and the strengthening of checks and balances. In classical constitutional theory, the separation of powers is designed to prevent concentration of authority by dividing legislative, executive, and judicial powers (Kurnia, 2025). In a presidential system, the executive and

legislature derive legitimacy from separate electoral mandates. The President does not depend on parliamentary confidence to remain in office, as in a parliamentary system. Therefore, the assumption that presidential candidates must first secure legislative support through a nomination threshold is theoretically problematic. The Constitutional Court emphasized that the claim that legislative political support strengthens presidentialism cannot always be proven valid, either in theory or in comparative presidential practice (Mahkamah Konstitusi Republik Indonesia, 2024).

In Indonesia, the presidential threshold has often been defended on the ground that it encourages coalition-building and ensures governability. Yet this argument overlooks the fact that coalitions in Indonesia are highly pragmatic and fluid. Coalitions are not only formed before elections, but also during and after elections. Political parties that initially take an oppositional stance may later join the government and obtain cabinet positions (Kompas, 2022). This practice shows that the presidential threshold does not necessarily produce stable ideological coalitions or strengthen the presidential system. Instead, it may reinforce transactional politics by making presidential nomination dependent on elite bargaining among political parties.

The threshold may also weaken the checks and balances system. When a large number of parties are bound to the executive through pre-election coalition commitments, the legislature may lose its capacity to exercise oversight effectively. Constitutional mechanisms such as the right of interpellation, the right of inquiry, and the right to express opinions may become politically constrained because legislative actors are tied to the government they previously supported. This situation undermines the constitutional function of the legislature as an institution of control over executive power. In a presidential system, executive legitimacy should come directly from the people, not from prior legislative endorsement. The presidential threshold therefore risks importing parliamentary logic into a presidential system by making presidential candidacy dependent on parliamentary seat ownership or previous legislative vote acquisition.

Based on these considerations, the ratio decidendi of Decision Number 62/PUU-XXII/2024 can be understood as an effort to restore the constitutional foundation of presidential elections in Indonesia. The Court did not merely annul a numerical threshold, but corrected a legal policy that had restricted political parties, narrowed citizens' electoral choices, and distorted the logic of presidentialism. By declaring the presidential threshold unconstitutional, the Court reaffirmed that presidential nomination must be aligned with political equality, people's sovereignty, constitutional rights, and a genuine checks and balances system. The decision marks a shift from formal electoral legality toward substantive constitutional democracy.

B. The Ethical Dimension of Constitutional Court Decision Number 62/PUU-XXII/2024

The ethical dimension of Constitutional Court Decision Number 62/PUU-XXII/2024 is important because the Court, in one of its central considerations, revived a classical debate in legal philosophy: the relationship between law and morality. In paragraph [3.25.1], the Court placed moral principles as a constitutional limit to the open legal policy of lawmakers. The moral principles referred to by the Court are not external moral preferences or subjective ethical claims, but universal principles adopted in the Constitution of the Republic of Indonesia. This reasoning shows that constitutional adjudication cannot be reduced to formal textual interpretation or procedural legality. It also requires an ethical inquiry into whether a statutory policy remains consistent with the moral foundations of the Constitution, especially when that policy affects political rights, democratic participation, and the structure of presidential elections (Mahkamah Konstitusi Republik Indonesia, 2024).

Before Decision Number 62/PUU-XXII/2024, the Constitutional Court generally regarded the presidential threshold as an open legal policy of lawmakers. This position gave broad discretion to the legislature to determine the nomination requirements for presidential and vice-presidential candidates, as long as the policy was not explicitly proven to contradict the 1945 Constitution. Such an approach reflected a relatively positivistic orientation because the Court tended to prioritize the formal authority of lawmakers in electoral design. However, the decision marks a shift in the Court's constitutional posture. The Court no longer viewed open legal policy as an absolute domain immune from constitutional review. Instead, it emphasized that every legislative policy must still be measured against constitutional principles, particularly when the policy restricts the political rights of citizens and political parties.

This shift is significant because the doctrine of open legal policy often becomes a justification for judicial restraint in reviewing political questions. In electoral matters, judicial restraint may be necessary to respect the democratic authority of lawmakers. Nevertheless, judicial restraint cannot be interpreted as judicial surrender. When a legislative policy produces exclusion, narrows political competition, or privileges certain political actors, the Constitutional Court has the duty to examine whether such policy is compatible with the Constitution. In the context

of the presidential threshold, the Court found that the threshold was no longer merely a technical electoral arrangement. It had become a constitutional problem because it affected the right of political parties to nominate candidates, citizens' right to obtain meaningful electoral choices, and the balance between executive and legislative legitimacy in a presidential system.

The structure of the Court's reasoning in Decision Number 62/PUU-XXII/2024 shows at least three interpretive models: historical interpretation, comparative interpretation, and ethical interpretation (Safa'at et al., 2019). Historical interpretation was used to examine the original intent of Article 6A paragraph (2) of the 1945 Constitution and the ratio legis of the presidential threshold. Through this approach, the Court assessed whether the presidential threshold was part of the constitutional design intended by the framers during the amendment process. Comparative interpretation was used to observe the practice of presidential nomination in other countries that adopt presidential systems, particularly to test the assumption that a nomination threshold is necessary to strengthen presidentialism. Ethical interpretation was then used to connect the historical and comparative findings with the moral principles embedded in the Constitution.

The ethical interpretation employed by the Court reflects the idea that constitutional norms contain moral commitments that must guide the interpretation of statutory law. These commitments include people's sovereignty, political equality, human dignity, democratic participation, and the protection of constitutional rights. A statutory provision may be enacted through proper legislative procedures, but its constitutional legitimacy depends on whether it respects these commitments. In the case of the presidential threshold, the Court identified a gap between the formal legality of Article 222 of Law Number 7 of 2017 and the substantive values of constitutional democracy. The threshold formally regulated nomination, but substantively limited equal access to candidacy, reduced citizens' electoral alternatives, and strengthened elite domination in the nomination process. This is where the Court's ethical reasoning becomes decisive.

Therefore, the ethical dimension of Decision Number 62/PUU-XXII/2024 lies in the Court's effort to restore the relationship between positive law and constitutional morality. The decision does not merely invalidate a statutory provision because it conflicts with the textual provisions of the Constitution. More fundamentally, it declares that electoral law must be directed toward the moral purposes of constitutional democracy. The presidential threshold was considered unconstitutional not only because it lacked a strong basis in the original intent of Article 6A, but also because it contradicted the ethical substance of political equality, people's sovereignty, and fair democratic competition. In this sense, the Court's decision can be read as a constitutional-ethical correction of a legal policy that had long been defended under the doctrine of open legal policy, but ultimately failed to reflect the moral foundation of the Indonesian Constitution.

C. The Minimum Content of Morality in Constitutional Court Decision Number 62/PUU-XXII/2024

The existence of morality in law remains necessary in modern legal systems. Every humanitarian tragedy demands a legal solution that is not only formally valid, but also morally justified. Judicial decisions ending racial discrimination, the Universal Declaration of Human Rights, international covenants, and legal instruments prohibiting torture and protecting women and minorities are examples of moral commitments expressed through law. Dignified law is a prerequisite for humane collective life, both theoretically and factually (Mangesti & Tanya, 2014).

In politics, justice is the most important virtue. For Aristotle, the concrete form of justice in political life is law. Justice means acting not because something is beneficial only to oneself or to a particular group, but because the action is good in itself and good for everyone. A just action is not merely subjectively beneficial; it is objectively good because it corresponds to the moral quality of the act itself (Huijbers, 1982; Ujan, 2009). This Aristotelian understanding of justice provides a normative foundation for assessing whether the presidential threshold serves the common good or merely institutionalizes the interests of dominant political actors.

Based on the ratio decidendi identified in this article, namely the fulfillment of the constitutional rights of political parties, the protection of citizens' right to vote and right to be elected, and the purification of presidentialism through checks and balances, the Court appears to restore the meaning of Indonesia as a Pancasila-based democratic constitutional state. The decision can be read as an attempt to reconnect constitutional law with the ethical foundations of Indonesian statehood. In this context, the rule of law is not merely procedural legality, but a constitutional order that protects human dignity, democratic participation, and the moral substance of people's sovereignty (Hadjon, 2007).

Golding argues that a free society must always ask what is meant by a good society and what kind of freedom is required for that good society (Ujan, 2009). Indonesia's plural society requires shared values capable of sustaining social cohesion. Such cohesion does not arise by coincidence; it requires a normative compass. Pancasila, as the

crystallization of the Indonesian nation's fundamental values, functions not only as a way of life, but also as the highest source of values in the Indonesian legal system. Recognition of God, human rights, national unity, democracy, and social justice forms the ethical foundation of Indonesian constitutional life.

The moral community embodied in Pancasila is not rooted in secular individualism, but in the religiosity and communitarian ethics of the Indonesian nation. However, this moral foundation is often distorted by private or group interests in the political process. After two decades of maintaining the presidential threshold, the Constitutional Court deconstructed its previous approach by placing constitutional morality at the center of its reasoning. The Court democratized the presidential election by restoring equal nomination rights, expanding citizens' political choices, and rejecting the excessive dominance of elite coalitions. In doing so, the Court reaffirmed its status as guardian of the Constitution, not only in a formal legal sense, but also in an ethical-constitutional sense.

Decision Number 62/PUU-XXII/2024 therefore contains a minimum content of morality that can be identified in three dimensions. First, it affirms political equality by recognizing that all political parties participating in elections should have constitutional access to presidential nomination. Second, it protects citizens' political dignity by ensuring that the right to vote is accompanied by meaningful electoral alternatives. Third, it restores the logic of presidentialism by separating executive legitimacy from prior legislative endorsement. These three dimensions show that the Court did not merely abolish a numerical threshold. It reconstructed the constitutional morality of presidential elections in Indonesia by aligning electoral law with the principles of justice, people's sovereignty, political rights, and democratic constitutionalism.

CONCLUSION

Constitutional Court Decision Number 62/PUU-XXII/2024 marks a fundamental shift in the constitutional interpretation of the presidential threshold in Indonesia. The Court no longer positioned the threshold merely as an open legal policy, but as a constitutional issue affecting political rights, people's sovereignty, and the design of presidential democracy. Its ratio decidendi rests on three foundations: the fulfillment of the constitutional rights of political parties participating in elections, the protection of citizens' right to vote and right to be elected, and the purification of presidentialism through the strengthening of checks and balances. The ethical dimension of the decision lies in the Court's effort to reconnect positive law with constitutional morality, particularly political equality, democratic participation, human dignity, and the common good. Thus, the decision is not only the annulment of Article 222 of Law Number 7 of 2017, but also a constitutional-ethical reconstruction of presidential nomination in Indonesia.

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