

## Constitutionality Testing of Presidential Candidacy Thresholds in Elections Based on the Principle of Popular Sovereignty

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### Abstract

*This study critically examines the constitutionality of Indonesia's presidential candidacy threshold under Article 222 of Law No. 7 of 2017 in relation to the principle of popular sovereignty in Article 1(2) of the 1945 Constitution. The threshold requiring a party or coalition to hold 20% of DPR seats or 25% of the popular vote has been controversial for limiting voter choice and reinforcing oligarchic dominance. Using a normative legal research method, the study applies doctrinal interpretation through grammatical, systematic, historical, and teleological approaches to evaluate whether the threshold is consistent with constitutional democracy. The analysis identifies a disconnect between the legislative rule and the constitutional concept of sovereignty residing with the people, informed by theories of democracy, sovereignty, and progressive legal thought. While procedurally legitimate, the threshold lacks substantive constitutional validity because of its exclusionary impact on political participation. The study proposes four reform options: repeal, proportional adjustment, judicial reinterpretation, and constitutional amendment. These reforms would realign electoral rules with democratic principles and restore voters' political agency. A doctrinal reinterpretation model is offered, framing the threshold as a regulatory instrument rather than a rigid barrier, advocating a legal structure that promotes inclusivity and reflects the people's general will.*

### Keywords:

*Popular sovereignty,  
Presidential threshold,  
Constitutional democracy,  
Law No. 7 of 2017, Electoral  
reform*

### Abstrak

Studi ini secara kritis mengkaji konstitusionalitas ambang batas pencalonan presiden Indonesia berdasarkan Pasal 222 Undang-Undang Nomor 7 Tahun 2017 dalam kaitannya dengan prinsip kedaulatan rakyat yang tercantum dalam Pasal 1 Ayat (2) Undang-Undang Dasar 1945. Ambang batas yang mensyaratkan partai atau koalisi untuk menguasai 20% kursi DPR atau 25% suara rakyat telah menjadi kontroversial karena membatasi pilihan pemilih dan memperkuat dominasi oligarki. Menggunakan metode penelitian hukum normatif, studi ini menerapkan interpretasi doktrinal melalui pendekatan gramatikal, sistematis, historis, dan teleologis untuk mengevaluasi apakah ambang batas tersebut konsisten dengan demokrasi konstitusional. Analisis mengidentifikasi ketidakcocokan antara aturan legislatif dan konsep konstitusional kedaulatan yang berada di tangan rakyat, didasarkan pada teori demokrasi, kedaulatan, dan pemikiran hukum progresif. Meskipun secara prosedural sah, ambang batas tersebut kekurangan validitas konstitusional substantif karena dampaknya yang eksklusif terhadap partisipasi politik. Studi ini mengusulkan empat opsi reformasi: pembatalan, penyesuaian proporsional, penafsiran ulang yudisial, dan amandemen konstitusi. Reformasi ini akan menyelaraskan aturan pemilu dengan prinsip-prinsip demokrasi dan memulihkan agen politik pemilih. Model penafsiran doktrinal ditawarkan, memandang ambang batas sebagai alat regulasi rather than penghalang kaku, dan mengadvokasi struktur hukum yang mempromosikan inklusivitas dan mencerminkan kehendak umum rakyat.

**Kata Kunci** : Kedaulatan rakyat, Ambang batas presiden, Demokrasi konstitusional, Undang-Undang Nomor 7 Tahun 2017, Reformasi pemilu.

### INTRODUCTION

The principle of popular sovereignty, as enshrined in Article 1(2) of the 1945 Constitution of Indonesia, affirms that all political power originates from the people and is exercised through democratic institutions, particularly through elections. Within this framework, the legitimacy of electoral laws, including rules governing presidential candidacy, must align with the people's sovereign will. The

enactment of *Law No. 7 of 2017 on General Elections (UU Pemilu)* reaffirmed these constitutional commitments by codifying direct, fair, and participatory electoral processes (Presiden Republik Indonesia, 2017). Yet, the continued imposition of the presidential threshold stipulated under Article 222 has ignited considerable legal and academic discourse regarding its compatibility with democratic principles and constitutional mandates.

This threshold mandates that political parties or coalitions must secure at least 20% of DPR seats or 25% of the national vote in the preceding legislative elections to nominate a presidential candidate. Critics argue that this provision restricts electoral competitiveness, narrows candidate diversity, and entrenches political oligarchy by favoring dominant parties (Anugerah, 2022; Sabirin et al., 2023). Moreover, it has led to repeated Constitutional Court reviews where judges balance legislative intent with constitutional values. Scholars like Haruni (2022) and Wiraguna & Fakrulloh (2023) emphasize that such thresholds may suppress pluralistic political representation, violating the essence of representative democracy envisioned by the Constitution. These concerns are heightened in the lead-up to the 2024 general elections, where public pressure mounts for electoral reform.

Additionally, the legal debate surrounding the threshold intersects with broader constitutional theories. Rousseau's general will and Hans Kelsen's Grundnorm theory highlight that state power must derive legitimacy from a unified legal and moral order rooted in popular consent. Accordingly, scholars challenge whether restrictive nomination rules though enacted via formal legislative processes can still claim constitutional validity if they contradict the normative foundation of sovereignty (Simatupang & Kokpan, 2023; Soesatyo, 2024). Therefore, the ongoing tension between legal formalism (legal positivism) and moral-constitutional progressivism forms a critical backdrop against which this study proceeds.

Despite being legally codified, the presidential threshold provision in Indonesia's electoral framework raises a fundamental constitutional dilemma: does a statutory rule that restricts access to candidacy genuinely reflect democratic ideals and uphold the sovereignty of the people? Scholars have extensively questioned whether Article 222 of Law No. 7 of 2017, in practice, diminishes electoral equality by making it structurally difficult for new political actors to participate. The central legal problem, therefore, is not simply about legislative authority, but about the constitutional legitimacy of such authority when it curtails inclusive political participation one of the cornerstones of constitutional democracy (Hakim & Arif, 2024; Hariri et al., 2022).

To address this issue, it is necessary to scrutinize the legislative and judicial rationales supporting the threshold within a constitutional framework. A general solution lies in reconciling formal electoral laws with the normative demand for popular sovereignty. This includes critically interpreting Constitutional Court decisions, reevaluating the teleological goals of electoral law, and developing alternative legal models that better align with democratic principles. Such models must preserve electoral integrity while ensuring that all political groups, regardless of size, can participate in shaping the nation's highest leadership.

Several theoretical frameworks offer guidance in analyzing the constitutionality of presidential thresholds. The Theory of Popular Sovereignty, as articulated by Rousseau and adapted within Indonesian constitutionalism, contends that all legitimate state power must emanate from the collective will of the people (Aji et al., 2024; Sapardiyono et al., 2024). From this perspective, any law regardless of its procedural legitimacy must be evaluated against its ability to reflect the general will. This theory provides a normative benchmark to assess whether the presidential threshold impedes the people's right to directly influence executive leadership.

Similarly, the Theory of Constitutional Democracy insists on the balance between majority rule and the protection of minority rights through institutional safeguards. It advocates for legal structures that ensure participatory governance and uphold civil liberties. In this framework, electoral restrictions such as thresholds are permissible only if they serve the purpose of enhancing representational equity and preventing excessive political fragmentation not as a tool for preserving elite dominance (Ermalinda & Benu, 2024; Nasution et al., 2023). This theory therefore supports the judicial review of electoral laws that disproportionately hinder voter choice and undermine inclusivity.

From a jurisprudential standpoint, the tension between Legal Positivism and Progressive Legal Theory is especially relevant. While legal positivism upholds that laws are valid if enacted through proper

authority (Hariri et al., 2022), progressive scholars like Satjipto Rahardjo argue that law must be a living institution capable of evolving to serve justice and the needs of society. This viewpoint supports a constitutional critique of rigid electoral thresholds, particularly when they obstruct democratic innovation and diminish popular representation (Ramadhan & Muslimin, 2022). These theoretical insights lay the foundation for a reevaluation of the presidential threshold through both constitutional and democratic lenses.

The existing literature on the presidential threshold in Indonesia largely engages with its political implications, often emphasizing the role of party consolidation and political stability (Anugerah, 2022; Hakim & Arif, 2024). However, few studies rigorously examine the constitutional validity of such thresholds from a normative legal perspective. While empirical studies have explored the impacts of thresholds on candidate diversity and voter behavior, they often fall short of interrogating whether the law itself aligns with the foundational principles enshrined in the 1945 Constitution particularly the concept of sovereignty residing with the people.

Moreover, Constitutional Court decisions on the matter have been subject to scholarly interpretation, yet the judicial reasoning often leans on procedural justifications rather than engaging deeply with normative constitutional principles. While some rulings cite political stability and administrative feasibility as justifications for thresholds, they rarely offer comprehensive analysis on whether such restrictions conform to the broader ideals of participatory democracy. This leaves a significant gap in the literature particularly regarding how the Court should interpret laws that limit candidacy access through the lens of popular sovereignty (Wiraguna & Fakrulloh, 2023).

Scholars consistently argue that popular sovereignty, enshrined in Article 1(2) of the 1945 Constitution, serves as the normative backbone of Indonesia's democratic framework. The threshold set at 20% of DPR seats or 25% of national votes under Article 222 of *Law No. 7 of 2017* has been criticized for reducing the practical avenues through which the public can exercise sovereignty in nominating presidential candidates (Presiden Republik Indonesia, 2017). Haruni (2022) asserts that the threshold marginalizes voter choice, especially for those aligned with smaller or emerging parties. Similarly, Soesatyo (2024) and Sabirin et al. (2023) emphasize how the threshold transforms elections into elite competitions, violating the inclusive spirit of popular sovereignty. These arguments align with Rousseau's theory of the general will and Kelsen's Grundnorm, both of which posit that all legal norms must originate from the collective will of the people. Yet, some legal commentaries accept thresholds as necessary for electoral efficiency. Proponents, like Anugerah (2022), argue that thresholds prevent political fragmentation. However, this utilitarian defense often fails to account for the normative contradiction it creates with the constitutional mandate that sovereignty lies with the people. Few works test this contradiction doctrinally through systematic constitutional interpretation. The threshold's compatibility with the legal meaning of popular sovereignty remains underexplored from a constitutional law perspective.

The Constitutional Court (MK) has consistently played a pivotal role in adjudicating challenges to Article 222. Decisions from the Court tend to support the legislative authority of DPR, citing the importance of political stability (Presiden Republik Indonesia, 2017). Yet, as Wiraguna & Fakrulloh (2023) notes, the Court has not rigorously assessed whether such legislative choices undermine the democratic architecture of the Constitution. The literature shows a split. On one side, Amiruddin & Ramadani (2023) suggest the MK's deference to Parliament reflects judicial restraint a positivist tradition. On the other, Hakim & Arif (2024) argue that this judicial stance inadequately safeguards constitutional rights to participation and equality in elections. Notably, the MK's approach tends to rely on formalistic legal reasoning, emphasizing statutory procedures over democratic inclusivity. As Ramadhan (2021) points out, this approach neglects the teleological interpretation of the Constitution, which should prioritize outcomes that serve democratic ends. The Court's interpretive methods particularly their lack of systematic, historical, and teleological analysis require deeper academic interrogation. There is a need to assess whether the MK's rulings uphold or dilute the Constitution's democratic commitments.

The theory of constitutional democracy provides a robust framework for analyzing whether electoral structures, such as thresholds, align with core democratic values: representation, participation, and accountability. Nasution et al. (2023) and Eralinda & Benu (2024) argue that any electoral provision must be measured by its ability to actualize these values. In this light, thresholds are permissible only if

they enhance fairness and prevent anti-democratic outcomes not when they entrench political monopolies. According to Sapardiyono et al. (2024), a key test of constitutional democracy is whether electoral systems create meaningful avenues for all political interests to compete. This aligns with comparative literature (Danso & Asmorowati, 2020), which finds that overly restrictive nomination rules in post-authoritarian regimes tend to suppress democratic resilience. While political theory literature addresses constitutional democracy broadly, specific applications to Indonesia's presidential nomination law, especially in a doctrinal legal format are limited.

The interpretive tension between legal positivism and progressive legal theory is central to evaluating Article 222's legitimacy (Presiden Republik Indonesia, 2017). Positivist scholars such as Hariri et al., (2022) argue that as long as the threshold was passed procedurally by DPR, it is valid law. They stress legal certainty and legislative supremacy. In contrast, progressive theorists like Satjipto Rahardjo, and recent legal scholars such as Ramadhan & Muslimin (2022), insist that legal validity must also be evaluated by substantive justice and social impact. From this standpoint, a law that limits political participation regardless of procedural legitimacy must be reconsidered. Berteau (2020) critiques positivism's inability to respond to evolving democratic demands, while Timomor & Pangalila (2023) emphasize that law must function as a tool for social transformation, particularly in societies still consolidating democratic norms. There is limited integration between this jurisprudential debate and the practical realities of Indonesia's electoral system. How these opposing theories shape judicial reasoning in MK decisions remains insufficiently explored in the literature.

Democracy is not merely procedural; it thrives on active citizen participation and the institutional responsiveness to civil society. In the context of the presidential threshold, scholars like Daherman & Wulandari (2024) highlight how civil society increasingly mobilizes against legal constraints that limit electoral choice. The use of digital platforms amplifies these efforts, democratizing access to political discourse. Anugerah (2022) and Simatupang & Kokpan (2023) document growing public dissatisfaction with existing electoral laws, interpreting this as a sign of a maturing democratic culture. Yet, the threshold remains a significant barrier to participation, undermining the aspirations of reformist candidates and their supporters. This suggests that democratic legitimacy must be reevaluated not only in terms of state law but also through the lens of civic engagement and responsiveness. As Nasution et al. (2023) argue, true sovereignty can only exist when laws evolve in response to public needs and not merely elite preferences. Furthermore, research in organizational theory demonstrates that inclusive communication and participative environments foster innovation and responsiveness principles equally relevant to democratic governance (Krisprimandoyo et al., 2025). Legal scholarship often under-theorizes the constitutional role of civil society. A doctrinal analysis that positions civic activism as an expression of popular sovereignty remains missing.

This study, therefore, aims to fill that lacuna by systematically applying constitutional doctrines and interpretative methodologies grammatical, systematic, historical, and teleological to determine whether the presidential threshold conforms to the spirit and letter of the Constitution. Unlike prior works that emphasize institutional pragmatism or electoral feasibility, this research foregrounds normative and doctrinal coherence as the primary evaluative criteria. The focus on legal norms, rather than empirical outcomes, distinguishes this research as a fundamentally constitutional law inquiry grounded in normative legal research methodology.

This study primarily aims to analyze the constitutionality of the presidential candidacy threshold under *Law No. 7 of 2017* in light of the principle of popular sovereignty as established by the 1945 Constitution. It seeks to offer a doctrinal critique of the relevant legal provisions, evaluate the Constitutional Court's interpretative stance, and propose a reformed legal framework that better upholds democratic values and inclusivity. By employing a normative legal methodology, the study emphasizes the theoretical coherence between constitutional principles and electoral practices, prioritizing legal norms over political convenience.

The novelty of this research lies in its strict constitutional law lens dissecting the presidential threshold not merely as a political or institutional device but as a normative construct subject to constitutional scrutiny. It offers an original contribution by bridging classical theories of popular sovereignty with contemporary constitutional adjudication, and by critiquing electoral laws through the framework of constitutional democracy and progressive legal interpretation. The study is geographically

focused on Indonesia, substantively centered on the presidential threshold, and temporally contextualized in the post-Reformasi era (2003–2024), including up-to-date analysis of legal and judicial developments.

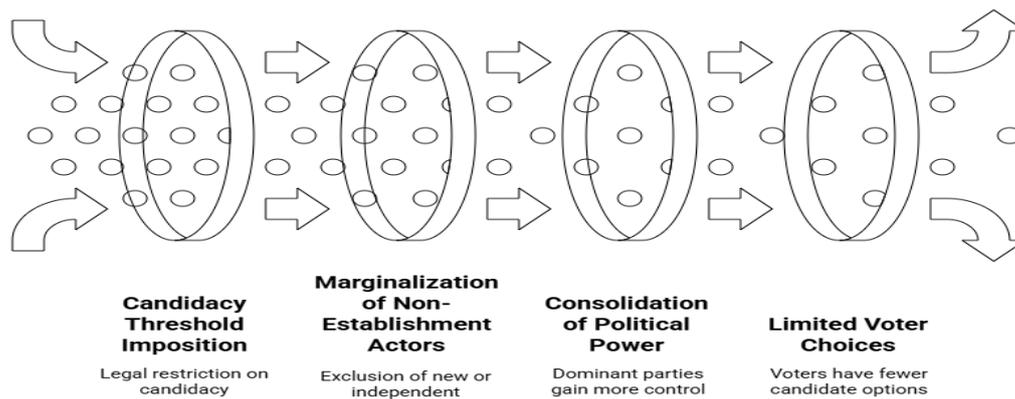
## **METHOD**

This study employs a normative legal research design, emphasizing the interpretation of authoritative legal texts to assess the constitutionality of Indonesia's presidential threshold as regulated in Article 222 of Law No. 7 of 2017. It interrogates whether such a provision aligns with the principle of popular sovereignty enshrined in Article 1(2) of the 1945 Constitution. Normative legal research, often referred to as doctrinal research, focuses on the systematic analysis of legal norms and principles using deductive reasoning (Saepudin et al., 2024; Timomor & Lolong, 2023). Rather than collecting empirical data, this study analyzes primary legal sources such as constitutional texts, legislation, and Constitutional Court decisions, supported by secondary literature in constitutional law (Haruni, 2022; Nasution et al., 2023; Wiraguna & Fakrulloh, 2023). The research is prescriptive in nature, aiming not only to critique existing norms but also to propose reformulations grounded in democratic and constitutional theory. The methodological approach integrates four normative techniques: statutory, conceptual, historical, and comparative. The statutory approach examines Indonesia's constitutional and electoral laws (Nasution et al., 2023; Rembulan, 2023), while the conceptual approach engages with foundational legal ideas like democratic legitimacy and electoral justice (Sapardiyono et al., 2024; Simatupang & Kokpan, 2023). The historical analysis contextualizes the threshold within Indonesia's post-Reformasi democratic trajectory (Hakim & Arif, 2024; Sabirin et al., 2023), and the comparative perspective assesses candidacy thresholds in other democracies (Danso & Asmorowati, 2020). Legal analysis employs grammatical, systematic, historical, and teleological interpretation to evaluate the norm's coherence, intent, and alignment with democratic values (Hariri et al., 2022; S. Ramadhan & Muslimin, 2022; Soesatyo, 2024). This layered approach allows for a robust engagement with legal formalism while incorporating progressive legal theory to propose constitutional reforms.

## **RESULTS AND DISCUSSION**

### **Constitutional Interpretation of Article 222 and the Principle of Popular Sovereignty**

The normative analysis of Article 222 of Law No. 7 of 2017 reveals a substantial dissonance between the presidential candidacy threshold and the constitutional principle of popular sovereignty as articulated in Article 1(2) of the 1945 Constitution (Presiden Republik Indonesia, 2017). The core argument centers on whether a legal provision that restricts candidacy based on parliamentary seat ownership or prior electoral performance undermines the electorate's right to full political participation. The principle of popular sovereignty as framed by Rousseau's general will and Kelsen's Grundnorm requires that all political authority must stem from the collective consent of the people (Aji et al., 2024; Sapardiyono A. and Dewi, I. K. and Soesilo, G. B., 2024). However, by conditioning access to presidential candidacy on party-based metrics from previous elections, the threshold marginalizes non-establishment actors and limits the democratic space for voters to elect candidates who reflect their current political aspirations (Haruni, 2022; Sabirin et al., 2023). This distortion is not merely theoretical. Empirical patterns in Indonesian elections demonstrate that such thresholds consolidate political power in the hands of dominant parties, which functionally narrows the representational base (Hakim & Arif, 2024; Wiraguna Z. A., 2023). Consequently, the electorate is often left with limited, predetermined choices contrary to the participatory ideals espoused by the Constitution. While proponents of the threshold argue it stabilizes the political system and avoids candidate oversaturation, this utilitarian rationale cannot override constitutional mandates (Anugerah, 2022). In line with a teleological interpretation, laws must serve the overarching democratic purpose of ensuring broad participation and inclusion. Thus, the candidacy threshold, though procedurally enacted, risks being substantively unconstitutional due to its restrictive impact on the exercise of popular sovereignty.



**Figure 1. Impact of Candidacy Threshold on Popular Sovereignty**

The sequential impact of candidacy thresholds on the principle of popular sovereignty begins with the imposition of legal restrictions on presidential candidacy, known as the candidacy threshold, which limits the ability of political actors to participate in elections. This restriction leads to the marginalization of non-establishment actors, such as new or independent candidates, who are effectively excluded from the political arena due to their inability to meet the threshold. Consequently, political power becomes increasingly consolidated in the hands of dominant or incumbent parties, reducing political plurality. The final outcome is limited voter choices, as the electorate is presented with fewer candidate options, thereby undermining the democratic ideal of political inclusiveness and diminishing the effective exercise of popular sovereignty.

### Judicial Reasoning, Democratic Legitimacy, and Legal Reform Proposals

An examination of the Constitutional Court's jurisprudence indicates that the Court has generally upheld the candidacy threshold based on the legislature's discretion and the perceived need for political consolidation (Amiruddin & Ramadani, 2023). However, such deference has often relied on legal positivist reasoning, prioritizing procedural validity over substantive justice (Hariri et al., 2022). In this context, the Court's rulings appear to exhibit an institutional conservatism that privileges stability over inclusivity. This is problematic from the standpoint of progressive legal theory, which advocates for judicial activism in remedying democratic deficits and aligning laws with evolving societal norms (Ramadhan & Muslimin, 2022; Timomor T., 2023). Moreover, the current framework is at odds with constitutional democracy, which demands not only lawful but legitimate governance rooted in equitable representation (Ermalinda & Benu, 2024; Nasution et al., 2023). The constitutional legitimacy of any electoral mechanism must derive from its capacity to reflect the people's will and facilitate competition, not restrict it through retrospective electoral arithmetic. Given these findings, this study proposes several normative reforms. First, the presidential threshold should be recalibrated or eliminated to align with participatory democratic values. Second, the Constitutional Court must adopt a more robust teleological and systematic interpretative framework grounded in the Constitution's spirit rather than just statutory language. Finally, civil society's role in shaping electoral discourse must be legally protected and institutionally amplified to ensure that legal reforms are responsive to public aspirations (Daherman & Wulandari, 2024; Simatupang & Kokpan, 2023).



**Figure 2. Reforming Presidential Nomination Regime**

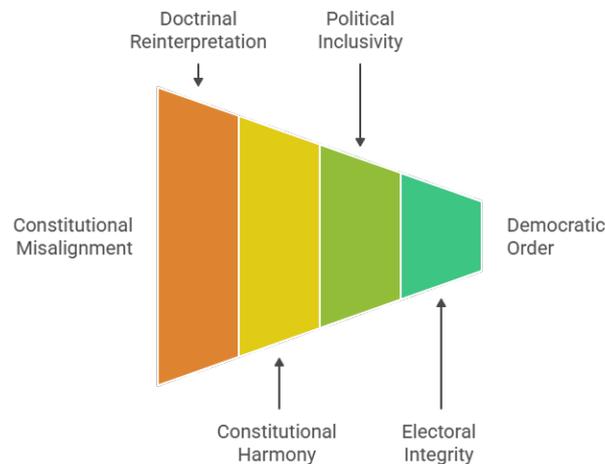
Figure 2 illustrates a reformative pathway for Indonesia's presidential nomination regime by emphasizing the centrality of normative legal reforms. On the left, the restrictive candidacy threshold is shown to limit electoral agency and democratic representation by excluding capable candidates who lack institutional party backing. At the core of the model is the call to implement normative reforms, which should be grounded in the Constitution's spirit, align with participatory democracy, and ensure responsiveness to the people's aspirations. The outcome, depicted on the right, is the restoration of genuine representation, signifying the fulfillment of constitutional promises and the reinforcement of popular sovereignty. The diagram thus advocates for legal reform as a mechanism to realign electoral processes with democratic and constitutional ideals. In conclusion, while the candidacy threshold was legislatively enacted, its practical consequences and conceptual underpinnings raise serious concerns about its alignment with the constitutional principle of popular sovereignty. A reformed presidential nomination regime, rooted in constitutional democracy and supported by progressive legal theory, is essential to restoring the people's full electoral agency and upholding the constitutional promise of genuine representation.

### **Doctrinal Reinterpretation Model and Constitutional Reconstruction of the Presidential Threshold**

The constitutional analysis of the presidential threshold reveals a critical misalignment between the text of Article 222 of Law No. 7 of 2017 and the core democratic principle enshrined in Article 1(2) of the 1945 Constitution namely, that sovereignty belongs to the people and is exercised in accordance with the Constitution (Presiden Republik Indonesia, 2017). A doctrinal reinterpretation is thus required to restore harmony between the operative norms of electoral law and the foundational values of Indonesia's constitutional democracy. This reinterpretation is premised on a teleological and systematic reading of constitutional norms. Teleologically, the purpose of constitutional electoral provisions is to facilitate political participation and ensure representativeness, inclusivity, and electoral equality. Systematically, the Constitution must be read as a cohesive whole, where no statutory provision including electoral thresholds may be construed in a way that restricts the democratic rights of citizens or imposes structural advantages for political elites. Within this framework, the presidential threshold as articulated in Article 222 must be reinterpreted not as a rigid numeric limitation, but as a flexible administrative mechanism that should never override the principle of free and fair electoral competition (Sapardiyono A. and Dewi, I. K. and Soesilo, G. B., 2024; Soesatyo, 2024).

Furthermore, the Grundnorm theory of Hans Kelsen supports this reinterpretation by requiring that all derivative norms (such as electoral statutes) remain subordinate to the constitutional order. If Article 222 effectively obstructs access to candidacy for political actors who possess significant public support but lack legislative backing, it violates the *grundnorm* of popular sovereignty. In doctrinal terms, such a conflict demands *verfassungskonforme Auslegung* (constitution-conforming interpretation), which insists that the interpretation of sub-constitutional statutes must align with the Constitution's core principles (Koto et al., 2023). In operational terms, the doctrinal reinterpretation model recommends a constitutional presumption in favor of political inclusivity. This principle holds that electoral rules must be construed, applied, and if necessary, judicially modified in a way that facilitates, rather than restricts,

the participation of diverse political actors. This is especially vital in a pluralistic democracy such as Indonesia, where political heterogeneity is a natural reflection of societal diversity. Consequently, the interpretation of the presidential threshold must shift from a *quantitative gatekeeping mechanism* to a *qualitative regulatory norm*, oriented toward electoral integrity and representational equity.



**Figure 3.** Foundations of Contractual Integrity

Additionally, this reinterpretation should be guided by progressive legal theory, particularly the Indonesian school led by Satjipto Rahardjo, which emphasizes that law is not merely a set of rigid rules, but an instrument of social justice. Under this lens, Article 222 should not be read mechanistically; rather, it should be evaluated for its substantive impact on democratic participation. If the threshold hinders the people's ability to nominate and elect candidates of their choice, then it stands in contradiction to the moral aspirations of the Constitution and must be doctrinally redefined or judicially neutralized (Ramadhan & Muslimin, 2022; Timomor T, 2023). Finally, from a comparative constitutional perspective, democratic systems in other jurisdictions either do not impose such thresholds or implement them only within proportional representation systems not in presidential elections, where executive legitimacy is expected to stem directly from the people (Danso & Asmorowati, 2020). The doctrinal reinterpretation model, therefore, also draws upon international democratic standards, aligning Indonesia's electoral law with globally recognized principles of fair electoral access and substantive political equality.

In conclusion, the doctrinal reinterpretation of Article 222 should result in a constitutional recalibration of the presidential threshold norm: either its outright repeal or its reformulation into a non-restrictive provision that respects political plurality and the foundational sovereignty of the people. This model not only reinforces the supremacy of the Constitution but also affirms Indonesia's commitment to a participatory and inclusive democratic order rooted in legal integrity and constitutional morality.

### **Legal Reform Scenarios: Realigning Electoral Norms with Constitutional Democracy**

The legal reform scenarios proposed in this study aim to realign Indonesia's presidential threshold provision with the principle of popular sovereignty as enshrined in Article 1(2) of the 1945 Constitution (Presiden Republik Indonesia, 2017). The first scenario involves a full legislative repeal of Article 222 of Law No. 7 of 2017, thereby abolishing any threshold and allowing all registered political parties to nominate candidates. This would restore open competition and broaden democratic participation, ensuring that voter choice is not structurally constrained (Syahrin, 2024; Tindangen et al., 2023). The second scenario proposes a proportional adjustment of the threshold, significantly lowering it to ensure a fairer and more inclusive candidacy system. This revised model would maintain a minimal regulatory safeguard while avoiding the exclusionary effects of the current (Danso & Asmorowati, 2020; Sabirin et al., 2023). A third scenario envisions judicial reform through the Constitutional Court, seeking the nullification or narrow reinterpretation of Article 222 based on constitutional incompatibility with democratic values and equal political rights (Amiruddin & Ramadani, 2023). The final scenario advocates for constitutional amendment, embedding explicit protections for electoral equality to prevent future normative distortions (Handoko, 2023; Nasution et al., 2023). Each model addresses a distinct legal and

institutional route legislative, judicial, or constitutional to restore alignment between electoral regulations and democratic legitimacy. Collectively, these scenarios affirm that sustainable electoral reform requires a principled commitment to constitutional democracy, legal accountability, and inclusive political participation.



**Figure 4.** Enhancing Contractual Integrity

Figure 4 outlines four distinct legal reform scenarios aimed at overcoming the democratic constraints imposed by Indonesia's presidential candidacy threshold. At the center lies the need for legal reform, branching into judicial, legislative, and constitutional pathways. Judicial reform involves the nullification or reinterpretation of Article 222 by the Constitutional Court. Proportional adjustment suggests lowering the threshold to allow fairer candidate access. Legislative repeal proposes abolishing the threshold altogether to foster open competition. Meanwhile, constitutional amendment advocates for explicitly protecting electoral equality in the Constitution. These pathways collectively respond to the current state of constrained voter choice, aiming instead to achieve broadened democratic participation, where voter options are no longer structurally limited.

## DISCUSSION

A normative examination of Article 222 of Law No. 7 of 2017 demonstrates a fundamental conflict between the presidential candidacy threshold and the principle of popular sovereignty enshrined in Article 1 paragraph (2) of the 1945 Constitution. The requirement that a party or coalition must secure at least 20 percent of parliamentary seats or 25 percent of the national vote has been shown to constrict democratic space in practice. This provision excludes non-establishment actors, including new parties and independent candidates, thereby reinforcing the dominance of established political elites. Consequently, the electorate faces limited choices, undermining the constitutional ideals of inclusiveness and meaningful democratic participation.

The Constitutional Court has consistently upheld the threshold, largely on the basis of political stability, by relying on a legal-positivist approach that privileges procedural validity over substantive justice. Such reasoning has been criticized within progressive legal scholarship, which calls for a teleological and systematic interpretation to ensure alignment between legal norms, democratic values, and the aspirations of the people.

In response, the doctrinal reinterpretation of Article 222 is essential. Drawing on Kelsen's Grundnorm theory and the principle of *verfassungskonforme Auslegung*, the provision should be construed in a manner consistent with the Constitution so that it does not restrict citizens' political participation. The threshold ought to function as a flexible administrative instrument rather than a rigid barrier to electoral competition. This perspective accords with Satjipto Rahardjo's progressive legal theory, which conceives of law as a vehicle for social justice, and it reflects international constitutional practices in which presidential elections typically do not impose such thresholds.

From this analysis, several reform pathways emerge. Legislative repeal of Article 222 would restore genuine openness in presidential nominations, while proportional adjustment of the threshold could promote greater inclusivity. Judicial reinterpretation or annulment through constitutional review would

also correct the normative inconsistency, and constitutional amendment could further institutionalize protections for electoral equality and political access. Collectively, these measures aim to reassert popular sovereignty, expand democratic participation, and strengthen the realization of substantive constitutional democracy in Indonesia.

## CONCLUSIONS

This study has shown that the presidential candidacy threshold stipulated under Article 222 of Law No. 7 of 2017 is normatively inconsistent with the constitutional principle of popular sovereignty enshrined in Article 1(2) of the 1945 Constitution. While proponents argue that such thresholds support political stability and electoral efficiency, the analysis demonstrates that they structurally constrain voter choice, marginalize non-establishment actors, and entrench oligarchic control. Through doctrinal interpretation grounded in constitutional democracy, the study concludes that the current threshold regime contradicts the inclusive and participatory spirit of the Constitution. It not only restricts democratic competition but also undermines the legitimacy of executive leadership, which should be derived directly from the people's will. The research integrates theories of popular sovereignty, progressive legal thought, and constitutional jurisprudence to argue for a substantive recalibration of electoral norms in Indonesia.

## SUGGESTIONS

In light of these findings, four concrete legal reform scenarios are recommended to restore democratic legitimacy. First, a full legislative repeal of Article 222 would allow open competition by eliminating structural barriers to candidacy. Second, a proportional adjustment could lower the threshold to preserve regulatory oversight without excluding legitimate contenders. Third, judicial reinterpretation by the Constitutional Court should invoke constitutional conformity and progressive legal theory to render restrictive provisions invalid. Fourth, a constitutional amendment should explicitly embed electoral equality to prevent future legal distortions. These reforms must be guided by a participatory, teleological, and systematic interpretation of constitutional norms, with civil society playing a central role in shaping the discourse. Together, these recommendations aim to reaffirm Indonesia's commitment to constitutional democracy by ensuring that the electoral system reflects and protects the sovereign will of the people.

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