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## Citizens' Political Freedom in Regional Elections after Constitutional Court Decision

Muhammad Azhari Aqil<sup>1</sup>, Ahmad<sup>2</sup>, Selvi Aulia Herawati<sup>3</sup>, Diah Puspita Anggraini<sup>4</sup>,  
Mokhamad Bakhtiar Azami, Rijal Ibnu Sani<sup>5</sup>

Universitas Muhammadiyah Tangerang  
Jalan Perintis Kemerdekaan I/33 Cikokol Kota Tangerang 15118

\* Correspondence email: ahmad.law17@gmail.com

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**ABSTRACT:** Indonesia adopts a democratic system, one of the indicators of which is the implementation of Regional Head Elections (Pilkada). In these elections, a nomination threshold (electoral threshold) is applied, which was previously regulated under Article 40 of Law Number 10 of 2016. However, Constitutional Court Decision Number 60/PUU-XXII/2024 amended this provision, reducing the nomination threshold for candidates from political parties from 20% of seats or 25% of valid votes to a range between 6.5% and 10% of valid votes. This study employs a normative juridical method based on statutory and constitutional analysis. The purpose is to examine the extent of citizens' political freedom in participating in regional elections and to analyze the constitutional implications of the Constitutional Court's decision on citizens' political rights and the state of democracy in Indonesia. This ruling opens greater opportunities for citizens to participate through political parties and potentially strengthens local democracy.

**KEYWORD :** democracy, regional elections, political parties, citizens

### INTRODUCTION

Freedom is one of the essential elements of democracy, yet it has not always been fully enjoyed by human beings, even though it constitutes an inherent right of every individual (In'amuzzahidin, 2015). Freedom provides broad space across various dimensions of life, including politics, economics, and social affairs. These dimensions can be guided and maintained through strong communication among individuals. In expressing opinions and thinking systematically, no person or institution should obstruct an individual's intellectual freedom. As J. W. Johnson argues, a state that is genuinely democratic must provide substantial protection for freedom of expression in the media (Johnson, 2001).

Indonesia adopts a democratic system of government in which the people are the ultimate holders of sovereignty, with the aim of upholding collective welfare and justice. Indonesia is not alone in embracing democracy; many countries adopt democratic governance as a manifestation of constitutional order and responsible citizenship. Democracy encompasses a wide range of meanings, one of which is the right of citizens to elect political leaders through general elections (Pemilu) and regional elections (Pilkada) (Nugroho, 2012).

To democratically select representatives, general elections are conducted. Indonesia's first general election was held in 1955. It was carried out in two stages: on September 29, 1955, to elect members of the House of Representatives (DPR), and on December 15, 1955, to elect members of the Constituent Assembly. Indonesia's first election was conducted peacefully, honestly, fairly, and in a highly democratic manner (2005).

General elections and regional head elections are democratic celebrations held every five years. In each electoral cycle, political parties nominate candidates to compete, promoting their respective visions, missions, and ideological commitments (Chaniago, 2016). The constitutional framework sets out requirements for candidates seeking to contest elections. Article 18 of the 1945 Constitution regulates the democratic election of regional heads, including governors, regents, and mayors, further elaborated in Law No. 10 of 2016.

A significant Constitutional Court ruling—Decision No. 60/PUU-XXII/2024—has profoundly affected Indonesia's political dynamics. This ruling revised the nomination threshold for regional elections. Previously, political parties were required to obtain 20% of seats in the Regional House of Representatives (DPRD) or 25% of valid votes. The decision lowered this requirement to between 6.5% and 10%, depending on the population size listed in the permanent voter registry (DPT).

Prior to this ruling, parties without substantial representation in the DPRD were effectively prevented from nominating candidates, creating unequal treatment contrary to Law No. 2 of 2011 on Political Parties, which guarantees equal and fair treatment by the state (Kardeli, 2018). The previous threshold limited political freedom and restricted participation, as stipulated in Law No. 7 of 2017 on General Elections.

This study therefore examines citizens' political freedom to participate in regional head elections following Constitutional Court Decision No. 60/PUU-XXII/2024, particularly concerning the nomination threshold under Law No. 10 of 2016.

## **RESEARCH METHOD**

This research employs a normative juridical method, focusing on legal norms contained in statutory regulations and judicial decisions (Herdiandyah, 2015). The study adopts a conceptual approach using secondary data derived primarily from Constitutional Court decisions, statutes, and relevant academic literature. Data collection was conducted through comprehensive library research.

## **DISCUSSION**

### **The Exercise of Citizens' Political Freedom in Regional Head Elections**

Elections serve as a mechanism for selecting representatives to govern. They determine individuals who will occupy political offices, ranging from the presidency and legislative seats to village leadership. Elections also function as persuasive instruments through rhetoric, public relations, mass communication, lobbying, and related political engagement activities.

Conceptually, elections are the embodiment of popular sovereignty. Through elections, citizens grant legitimacy to those who hold power by delegating part of their authority to legislative and executive representatives. G.J. Wolhoff defines elections within the democratic framework as governance from, by, and for the people (Jurdi, 2018). Political participation forms the foundation of democratic culture. McClosky defines political participation as voluntary activities through which citizens engage in selecting rulers and influencing public policy. Participation is not merely a right but an active and voluntary civic responsibility.

Political freedom is constitutionally guaranteed under Article 28E(3) and Article 28D(3) of the 1945 Constitution, which affirm freedom of association, assembly, expression, and equal opportunity in government. Political participation includes voting behavior, campaign involvement, party membership, lobbying, organizational engagement, direct contact with officials, and, in extreme cases, acts of violence (Rohmah, 2019). Political rights protect individuals from governmental abuse of power. Article 43 of Law No. 39 of 1999 on Human Rights guarantees citizens the right to vote and to be elected in free, fair, and democratic elections.

The constitutional basis for elections is found in Article 22E of the 1945 Constitution, while regional elections are governed by Article 18(4), which mandates that governors, regents, and mayors be elected democratically. The Constitutional Court has clarified that although regional elections differ administratively from general elections, they remain materially democratic in nature (Decision No. 072-073/PUU-II/2005).

### **Implications of Constitutional Court Decision No. 60/PUU-XXII/2024**

Decision No. 60/PUU-XXII/2024 addressed the constitutionality of Article 40(3) of Law No. 10 of 2016. The previous regulation required political parties to hold DPRD seats to nominate candidates, even if they had secured sufficient valid votes. This requirement created legal uncertainty and restricted constitutional rights.

The Court declared the provision conditionally unconstitutional and reformulated the threshold based on population size. Political parties must now obtain between 6.5% and 10% of valid votes, depending on regional population levels.

This reform significantly expands opportunities for smaller and emerging political parties to nominate candidates, thereby strengthening political inclusiveness and reducing the likelihood of single-candidate elections. It also aligns with earlier Constitutional Court reasoning (Decision No. 004/PUU-III/2005), which interpreted the word “or” in nomination provisions as allowing alternative pathways.

For example, in Jakarta Province, which has over 8 million registered voters, the required threshold is 7.5%. The Indonesian Democratic Party of Struggle (PDIP), despite holding no DPRD seats in Jakarta, secured 14.01% of valid votes—exceeding the new threshold—thus enabling it to nominate candidates under the revised rule.

The decision enhances electoral fairness, reduces oligarchic dominance, and strengthens democratic competition at the local level.

### **CONCLUSION**

Constitutional Court Decision No. 60/PUU-XXII/2024 represents a significant milestone in strengthening citizens' political freedom, particularly for political party members seeking to contest regional head elections. The ruling affirms that every citizen has the right to be elected without discriminatory barriers.

By lowering the nomination threshold, the Court has reinforced the principle of popular sovereignty, ensuring that citizens possess not only the right to vote but also the right to be elected. This reform broadens political participation, enhances inclusivity, and creates greater opportunities for leadership that reflects the aspirations of the people. Ultimately, the decision marks a positive step toward deepening democratic consolidation and improving the quality of local democracy in Indonesia.

## REFERENCES

- Asshiddiqie, J. (2006). *Hukum acara pengujian undang-undang* (Cet. 1). Kerjasama Konstitusi Press dengan PT Syaamil Cipta Media.
- Chaniago, P. S. (2016). Evaluasi Pilkada Pelaksanaan Pilkada Serentak Tahun 2015. *Politik Indonesia: Indonesian Political Science Review*, 1(2), 196–211. <https://journal.unnes.ac.id/nju/jpi/article/view/6585>
- Eviany, E. (2019). *Pengantar Ilmu Politik dan Ruang Lingkupnya*. Cendikia Press. <http://eprints2.ipdn.ac.id/id/eprint/1273/>
- Grehenson, G. (2024, September 23). *Calon Tunggal di 38 Daerah, Kegagalan Partai Politik Calonkan Kadernya Sendiri* [Ugm.ac.id]. Calon Tunggal Di 38 Daerah, Kegagalan Partai Politik Calonkan Kadernya Sendiri. <https://ugm.ac.id/id/berita/calon-tunggal-di-38-daerah-kegagalan-partai-politik-calonkan-kadernya-sendiri/>
- Harahap, S. H. (n.d.). *IMPLIKASI PUTUSAN MAHKAMAH KONSTITUSI NOMOR:60/PUU-XXII/2024 TERHADAP SISTEM PILKADA DI INDONESIA* [Skripsi, UIN Syarif Hidayatullah Jakarta]. <https://repository.uinjkt.ac.id/dspace/bitstream/123456789/84844/1/Revisi%20Munaqosah%20finish.pdf>
- Hartono, H. (2024). Urgensi Putusan MK Nomor 60/PUU-XXII/2024 Terhadap Penyelenggaraan Pilkada Tahun 2024. *Jurnal Intelek Dan Cendekiawan Nusantara*, 1(4), 5374–5383. <https://jicnusantara.com/index.php/jicn/article/view/855>
- Herdiansyah, H. (2015). Metode Penelitian Kualitatif untuk Psikologi. *Salemba Humanika*.
- Holqi, F. G. F., Handayani, F. F., Astuti, W. P., Permatasari, P. D., & Putra, R. A. R. (2025). Fenomena Calon Tunggal dan Arah Gerak Partai Politik Pada Pemilihan Kepala Daerah Kabupaten/Kota 2024. *Jurnal Pemerintahan dan Politik*, 10(1), 110–130.
- IKHTISAR PUTUSAN 60-PUU-XXII\_2024*. (n.d.). Retrieved April 11, 2025, from [https://www.mkri.id/public/content/persidangan/sinopsis/ikhtisar\\_4084\\_2148\\_\(7\)\\_IKHTISAR\\_PUTUSAN\\_60-PUU-XXII\\_2024.pdf](https://www.mkri.id/public/content/persidangan/sinopsis/ikhtisar_4084_2148_(7)_IKHTISAR_PUTUSAN_60-PUU-XXII_2024.pdf)
- In'amuzzahidin, M. (2015). Konsep kebebasan dalam Islam. *At-Taqqaddum*, 259–276. <https://journal.walisongo.ac.id/index.php/attaqaddum/article/view/1206>
- Jurdi, F. (2018). *Pengantar Hukum Pemilihan Umum*. Kencana. <https://books.google.com/books?hl=id&lr=&id=N8NoDwAAQBAJ&oi=fnd&p>

- g=PA1&dq=Pilkada+merupakan+pelaksanaan+kedaulatan+rakyat+secara+langsung+di+tingkat+daerah.+Berdasarkan+Undang-Undang+Nomor+10+Tahun+2016+tentang+Pilkada,+pemilihan+gubernur,+bupati,+dan+wali+kota+dilaksanakan+secara+demokratis.+Hak+untuk+milih+dan+dipilih+adalah+bagian+dari+kebebasan+politik+warga+negara.+Namun,+dalam+praktiknya,+pelaksanaan+kebebasan+ini+sering+kali+terhambat+oleh+regulasi+pencalonan+yang+ketat,+seperti+ambang+batas+dukungan+dari+partai+politik,+serta+persoalan+politik+uang,+intimidasi+pemilihan,+dan+politisasi+birokrasi.+Salah+satu+isu+besar+yang+mengemuka+adalah+pembatasan+partisipasi+politik+melalui+ketentuan+ambang+batas+pencalonan,+yang+dinilai+menguntungkan+partai+besar+dan+membatasi+kompetisi+politik.&ots=\_wggIK0oMN&sig=n5cy81rPQwKawLe6HcE70416zys
- Johnson, J. W. (2001). Peran Media Bebas. *Demokrasi. Office of International Information Programs US Departement of State*, 7.
- Kardeli, S. D. (2018). Analisis tentang parliamentary threshold dan calon perseorangan berdasarkan Undang-Undang Nomor 10 Tahun 2016 dalam perspektif demokrasi dan prinsip check and ballances. *Legality: Jurnal Ilmiah Hukum*, 26(1), 118–129. <http://ejournal.umm.ac.id/index.php/legality/article/view/6618>
- Lestari, A. (2018). Penyebab Kehadiran Calon Tunggal Dalam Pemilihan Kepala Daerah. *Simbur Cahaya*, 249–262. <http://journal.fh.unsri.ac.id/index.php/simburcahaya/article/view/333>
- Mambang, M., & Rudi, R. (2015). Partisipasi Politik Masyarakat Pada Pemilihan Umum Kepala Daerah dan Wakil Kepala Daerah di Kabupaten Katingan: Community Political Participation In Regional Head Election And Regional Head Election In Katingan District. *Restorica: Jurnal Ilmiah Ilmu Administrasi Negara dan Ilmu Komunikasi*, 1(1), 17–24. <https://doi.org/10.33084/restorica.v1i1.775>
- Nugroho, H. (2012). Demokrasi Dan Demokratisasi: Sebuah kerangka konseptual untuk memahami dinamika sosial-politik di Indonesia. *Jurnal Pemikiran Sosiologi*, 1(1), 1–15. <https://journal.ugm.ac.id/jps/article/view/23419>
- Nugroho, W. (2016). Politik Hukum Pasca Putusan Mahkamah Konstitusi atas Pelaksanaan Pemilu dan Pemilukada di Indonesia. *Jurnal Konstitusi*, 13(3), 480–502.
- PEMENUHAN HAK POLITIK WARGA NEGARA DALAM PROSES PEMILIHAN KEPALA DAERAH LANGSUNG (*Fulfillment Of Citizen Political Right In The Direct Election Of Local Leaders Process*) | Budijanto | *Jurnal Penelitian Hukum De Jure*. (t.t.). Diambil 22 April 2025, dari <https://ejournal.balitbangham.go.id/index.php/dejure/article/view/186/49>
- Putusan MK 60 Berlaku di Pilkada 2024, Cagub di Jakarta Bisa Bertambah, Begini Rinciannya* | *Republika Online*. (n.d.). Retrieved April 13, 2025, from <https://news.republika.co.id/berita/sii5i9487/putusan-mk-60-berlaku-di-pilkada-2024-cagub-di-jakarta-bisa-bertambah-begini-rinciannya>
- Ramadhan, D., & Alfath, T. P. (2025). Kepastian Hukum Ambang Batas Pencalonan Dalam Sistem Pemilihan Umum Kepala Daerah Yang Demokratis Terhadap

- Putusan Mahkamah Konstitusi Nomor 60/PUU-XXII/2024. *PESHUM: Jurnal Pendidikan, Sosial dan Humaniora*, 4(2), 3554–3562.
- Republik Indonesia. (1945). *Undang Undang Dasar Negara Republik Indonesia Tahun 1945*.
- Rohmah, S. N. (2019). Partisipasi Politik Organisasi Massa Dalam Pemilihan Kepala Daerah. *ADALAH*, 3(4), Article 4. <https://doi.org/10.15408/adalah.v3i4.17799>
- Salinan Putusan Mahkamah Konstitusi Nomor 60/PUU-XXII/2024. (n.d.). Retrieved May 5, 2025, from [https://www.mkri.id/public/content/persidangan/putusan/putusan\\_mkri\\_11003\\_1724130779.pdf](https://www.mkri.id/public/content/persidangan/putusan/putusan_mkri_11003_1724130779.pdf)
- Sarbaini, S. (2020). Penyelenggaraan Pemilihan Kepala Daerah Secara Langsung dan Demokratis Sebagai Bentuk Perwujudan Hak Asasi Politik Masyarakat di Indonesia. *Legalitas: Jurnal Hukum*, 12(1), 107–136.
- Soedarsono. (2005). *MAHKAMAH KONSTITUSI SEBAGAI PENGAWAL DEMOKRASI : Penyelesaian Sengketa Hasil Pemilu 2004 Oleh Mahkamah Konstitusi RI (Cet. 1)*. Setjen n Kepaniteraan MKRI.
- Soleh, M. A., & Amnan, D. (2024). Implikasi Putusan Mahkamah Konstitusi Nomor 60/PUU-XXII/2024 terhadap Demokratisasi Pemilihan Kepala Daerah. *Presidensial: Jurnal Hukum, Administrasi Negara, Dan Kebijakan Publik*, 1(3), 116–127. <https://doi.org/10.62383/presidensial.v1i3.85>
- Zuhro, S. (2012). Memahami Demokrasi Lokal: Pilkada Tantangan dan Prospeknya. *Jurnal Pemilu Dan Demokrasi*, 4, 30–31.
- Sutrisno, C. (2017). Partisipasi Warga Negara Dalam Pilkada. *JPK (Jurnal Pancasila dan Kewarganegaraan)*, 2(2), 36–48.