

The Actualization of Pancasila Values as a Living Constitution in the Practice of Indonesia's Constitutional Democracy

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Abstract

In the development of Indonesia's post-reform constitutional democracy, interpreting Pancasila as a "living constitution" has become increasingly important for linking the state's foundational philosophical values with governance practices capable of adapting to evolving social, political, and legal dynamics. This concept emphasizes that Pancasila is not merely a static normative foundation but also a living and evolving source of values within state governance. Its relevance is evident as Indonesian democracy faces challenges such as electoral fragmentation, political polarization, and declining public participation during the 2020–2026 period. These conditions highlight the need for constitutional interpretation that balances governmental stability, protection of citizens' rights, and popular sovereignty. This study analyzes how Pancasila as a living constitution is understood within

Indonesia's constitutional democracy and examines how Constitutional Court interpretations reflect its values through judicial review. Using a normative legal method with conceptual, statutory, and case-based approaches, this study examines Constitutional Court Decisions No. 62/PUU-XXII/2024 and No. 135/PUU-XXII/2024. The findings show that Pancasila functions not only as a *staatsfundament* norm but also as a dynamic normative framework that enables constitutional evolution through judicial interpretation. These rulings demonstrate the Court's role in correcting distortions in procedural democracy, strengthening the inclusivity of popular sovereignty, maintaining institutional balance, and ensuring that democratic practices remain aligned with Pancasila's fundamental values. This underscores the importance of the Constitutional Court as the guardian of the constitution in actualizing contextual, responsive, and sustainable Pancasila values.

Keywords *Pancasila, Living Constitution, Constitutional Democracy, Constitutional Court, Indonesian Constitutionalism.*

A. Introduction

Pancasila, which serves as both the foundation of the state and the source of all sources of law within Indonesia's constitutional system, as explicitly stated in the Preamble to the 1945 Constitution of the Republic of Indonesia (UUD 1945), occupies a highly fundamental and strategic position in the formation of the national constitutional order.¹ Pancasila functions not only as the supreme legal foundation but also as a philosophical and ideological basis that shapes the development of Indonesian constitutionalism. Its influence is reflected in lawmaking, public policymaking, and legal enforcement. The values of Pancasila provide normative guidance for legislation and governance. Thus, all laws and regulations, including the constitution and its implementing regulations, must be rooted in, aligned with, and consistent with the

¹ Aditya Andela Pratama et al., "Revitalisasi Konstitusional Berbasis Pancasila Dalam Penghapusan Presidential Threshold," *Pancasila: Jurnal Keindonesiaan* 5, no. 1 (2025): 73–88, <https://doi.org/10.52738/pjk.v5i1.725>.

fundamental principles of Pancasila, which encompass belief in God, humanity, unity, democracy, and social justice. The function of Pancasila does not stop at the moral or ethical realm alone, but also serves as a philosophical and legal guide for the exercise of state power, ensuring that all governance practices remain in line with the national ideology and the goals of building a just, democratic, and inclusive legal system.² The interpretation of Pancasila in a constitutional context can be linked to the concept of a “living constitution”, a perspective that views the constitution as a dynamic, adaptive legal system capable of evolving in response to social, political, and economic changes, as well as the aspirations of society, and is not limited to its textual meaning alone.³ This approach emphasizes that the constitution is a living norm that evolves through the interpretive processes of state institutions, particularly the Constitutional Court (MK), as well as through state governance practices that continuously adapt to social dynamics and demands for legal reform. Through these interpretive mechanisms, constitutional judges have the latitude to apply various methods of interpretation, including grammatical, systematic, historical, teleological, to evolutionary, as long as they remain grounded in the values of Pancasila and the provisions of the 1945 Constitution, so that the constitution can function as a legal instrument that is adaptive, responsive, and relevant to the needs of society, and capable of upholding the principles of justice, unity, and popular sovereignty in a sustainable manner.⁴

Since the Reform Era, Indonesia’s constitutional democracy has experienced significant developments and challenges. Democratic transition after the authoritarian era expanded political participation while creating challenges in balancing political freedom, governmental

² Sekar Anggun Gading Pinilih, “Penguatan Kedudukan Mahkamah Kehormatan Dewan Sebagai Peradilan Etika,” *Masalah-Masalah Hukum* 50, no. 3 (2021): 244–245, <https://doi.org/10.14710/mmh.50.3.2021.244-253>.

³ Fakhris Lutfianto Hapsoro and Ismail Ismail, “Interpretasi Konstitusi Dalam Pengujian Konstitusionalitas Untuk Mewujudkan The Living Constitution,” *Jambura Law Review* 2, no. 2 (2020): 139–60, <https://doi.org/10.33756/jlr.v2i2.5644>.

⁴ *Ibid.*, hlm.146–147

stability, and institutional effectiveness. Within this framework, democracy is understood not only as a mechanism for free and fair elections but also as a system that requires constitutional supremacy, limitations on state power, and the protection of fundamental rights.⁵ In this context, the Constitutional Court (MK) occupies a highly strategic position as the guardian of the constitution, as well as an institution responsible for interpreting the fundamental values of Pancasila through its authority to review laws against the 1945 Constitution. This strategic role is clearly evident in Constitutional Court Decision No. 62/PUU-XXII/2024, which abolished the presidential threshold provision, thereby opening up broader opportunities for presidential candidacy, as well as strengthening the principle of popular sovereignty and upholding social justice as an integral part of a democratic foundation that genuinely responds to the people's aspirations.⁶ This decision, issued in 2024, marks a shift from the previous approach of judicial restraint, as seen in Decisions No. 14/PUU-XI/2013 and 52/PUU-XIV/2016, toward judicial activism that corrects the fragmentation of electoral democracy, although it raises concerns about potential governmental instability.⁷ Furthermore, Constitutional Court Decision No. 135/PUU-XXII/2024, which mandates the separation of national and regional elections starting in 2029, reflects efforts to adapt the constitutional system to address technical challenges in conducting simultaneous elections, including the administrative burden on election organizers, potential voter fatigue, and the need for more efficient and accountable

⁵ Maximiliana Krismarmita Brahman et al., "Analisis Prinsip Demokrasi Dalam Konstitusi Indonesia: Tinjauan Terhadap Implementasi Dan Tantangannya," *Politika Progresif: Jurnal Hukum, Politik Dan Humaniora* 1, no. 2 (2024): 252, <https://doi.org/10.62383/progres.v1i2.343>.

⁶ Lutfi Nur and Muhammad Ngazis, "Study Putusan Mahkamah Konstitusi Mk Nomor 62/Puu- Xxii/2024 Penerapan Ambang Batas Presidensi (Presidential Threshold) Sebagai Kebijakan Hukum Terbuka Dalam Pemilihan Umum di Indonesia," *Jurnal Ilmiah Sultan Agung* 1, no. 1 (2025): 172–79.

⁷ Alfi Rahmayanti and Ikhsan Fatah Yasin, "Implikasi Putusan MK No 62 Tahun 2024 Terkait Penghapusan Presidential Threshold," *TarunaLaw: Journal of Law and Syariah* 3, no. 2 (2025): 179–85, <https://doi.org/10.54298/tarunalaw.v3i02.475>.

election management.⁸ Nevertheless, the actualization of the values of Pancasila in state governance practices still faces quite complex and multidimensional challenges, including issues of transparency in legislation, political fragmentation that often leads to polarization, and the dynamics of protecting citizens' rights in the process of national legal development. These challenges demand prudence, consistency, and sustained commitment from all state institutions, so that constitutional democracy can truly function as a political system that is fair, inclusive, participatory, and in harmony with the principles of Pancasila, while simultaneously ensuring the sovereignty of the people, social justice, and the stability of the state on an ongoing basis.⁹

A review of previous research indicates that studies on Pancasila, the concept of the living constitution, and the practice of constitutional democracy in Indonesia have evolved significantly in tandem with the dynamics of state governance and the various interpretations of the constitution, which are constantly changing. Hapsoro and Ismail (2020) emphasize the role of the Constitutional Court in realizing the concept of a living constitution through constitutional interpretation grounded in Pancasila values. Their study highlights the transformation of the 1945 Constitution from a formal legal document into a living constitution that adapts to social, political, and legal developments.¹⁰ Pratama et al. (2025) examine Constitutional Court Decision No. 62/PUU-XXII/2024 and argue that the abolition of the presidential threshold reflects the revitalization of Pancasila values, particularly popular sovereignty and social justice, within Indonesia's constitutional democracy.¹¹ Another study in the journal *Progres* explores the principles

⁸ Indekstat, "Putusan MK No. 135/PUU-XXII/2024: Koreksi Sistemik Terhadap Beban Demokrasi," Indekstat.com, 2017, <https://indekstat.com/putusan-mk-no-135-puu-xxii-2024-koreksi-sistemik-terhadap-beban-demokrasi-2/>.

⁹ Yayuk Hidayah, Risti Aulia Ulfah, and Nufikha Ulfah, "Membangun Demokrasi Sehat Dalam Kajian Pendidikan Kewarganegaraan," *ASANKA : Journal of Social Science and Education* 4, no. 2 (2023): 137–46, <https://doi.org/10.21154/asanka.v4i2.4813>.

¹⁰ Hapsoro and Ismail, "Interpretasi Konstitusi Dalam Pengujian Konstitusionalitas Untuk Mewujudkan The Living Constitution." hlm. 139–147

¹¹ Pratama et al., "Revitalisasi Konstitusional Berbasis Pancasila Dalam Penghapusan Presidential Threshold.", hlm. 80–81

of constitutional democracy and its various challenges, including political corruption, low political literacy, and party fragmentation, underscoring the importance of Pancasila democracy as a model capable of integrating local values with modern constitutional principles.¹² Although previous studies have made important contributions, most of these studies remain partial and focus on specific cases or aspects, such as judicial interpretation methods, the presidential threshold, or the right to govern the state, resulting in a research gap characterized by a lack of comprehensive analysis linking the values of Pancasila as a living constitution with the broader practice of constitutional democracy, particularly regarding the evolution of the Constitutional Court's interpretations post-2024 within the context of political fragmentation and demands for inclusivity. Most studies have also not fully integrated the empirical dynamics of democracy during the 2020–2026 period, even though this period demands an evolutionary interpretation of the constitution to balance governmental stability, political participation, and the quality of public representation. Therefore, a study that combines normative analysis, empirical evaluation, and the values of Pancasila as a constitutional guide to life is essential for a comprehensive understanding of Indonesia's constitutional democracy and the relevance of Pancasila's principles in addressing complex and multidimensional contemporary challenges.¹³

Based on the background discussion and the research gaps identified earlier, this article formulates two main research questions that serve as the focus of this study. First, how is the concept of Pancasila as a living constitution understood and implemented within the framework of Indonesia's constitutional democracy, including how the nation's foundational values serve as normative and philosophical guidelines in dynamic governance practices. Second, how do the Constitutional Court's interpretations in recent constitutional rulings reflect the

¹² Brahman et al., "Analisis Prinsip Demokrasi Dalam Konstitusi Indonesia: Tinjauan Terhadap Implementasi Dan Tantangannya."

¹³ Cindy Nurhasannah et al., "Kajian Pancasila Sebagai Pilar Filosofis Demokrasi Indonesia Dalam Pembentukan Kebijakan Hukum Yang Berkeadilan," *Aliansi: Jurnal Hukum, Pendidikan Dan Sosial Humaniora* 2, no. 3 (2025): 15–25, <https://doi.org/10.62383/aliansi.v2i3.853>.

actualization of Pancasila values in the practice of constitutional democracy, particularly regarding the protection of citizens' rights, the rule of law, and the principle of popular sovereignty, which form the foundation for the exercise of state power. These questions aim to unravel the interrelationship between legal norms, the fundamental principles of Pancasila, and democratic mechanisms that are adaptive to social, political, and legal changes. The primary objective of this study is to comprehensively analyze the mechanisms of the actualization of Pancasila as a living constitution within the framework of constitutional democracy, by thoroughly examining the role of the Constitutional Court's interpretations in revitalizing the nation's foundational values. This approach is expected to explain how the constitution is not merely a formal document, but also a living guide capable of adapting to the demands of society and political dynamics, thereby ensuring that democratic practices remain responsive, inclusive, and in line with the principles of social justice and popular sovereignty. Theoretically, this study makes a significant contribution to the development of constitutional law studies, particularly by enriching the theory of the living constitution within the context of Pancasila, a concept that has traditionally been analyzed primarily from a Western perspective, thus offering a uniquely Indonesian model of constitutionalism capable of addressing contemporary socio-political challenges. Practically, the results of this study are expected to provide a deeper understanding of the role of Pancasila in strengthening inclusive democracy, while also offering recommendations to policymakers to ensure that election regulations, mechanisms for political participation, and the overall conduct of democracy remain aligned with the values of popular sovereignty and social justice, while maintaining a balance between political participation, governmental stability, and the sustainable quality of popular representation.

This study employs a normative legal approach as its primary framework, combined with a conceptual method to conduct an in-depth examination of the essence of the "living constitution" of Pancasila, as well as how the nation's foundational values serve as a guiding principle in the practice of constitutional democracy. In addition, this study also

adopts a legislative approach to systematically analyze the hierarchy of norms contained in the 1945 Constitution and its derivative legislation, thereby revealing the relationship between fundamental norms, derivative norms, and their application in legal practice. A case study approach is also applied to examine in detail Constitutional Court Decisions No. 62/PUU-XXII/2024 and 135/PUU-XXII/2024, which serve as focal points in understanding how constitutional interpretation can adapt to the demands of democracy, popular sovereignty, and the principle of social justice.¹⁴ The primary legal sources used in this study include the 1945 Constitution, the Election Law, and relevant Constitutional Court decisions, while secondary sources consist of academic journals, reference books, and relevant constitutional law literature; tertiary sources include legal dictionaries to ensure the accuracy of the legal terms and concepts used. The analysis was conducted using a descriptive qualitative approach, applying legal interpretation, comparative analysis, and critical argumentation techniques. The study distinguishes between positive legal interpretation based on constitutional and statutory provisions and Pancasila-based interpretation reflected in the use of Pancasila values in judicial reasoning. This approach highlights the interconnection between Pancasila values, legal norms, and the adaptation of state institutions in responding to socio-political dynamics and democratic challenges.¹⁵

B. Discussion

I. The Concept of Pancasila as a Living Constitution from the Perspective of Constitutional Theory

1. The Concept of a Living Constitution in Constitutional Theory

¹⁴ Pratama et al., "Revitalisasi Konstitusional Berbasis Pancasila Dalam Penghapusan Presidential Threshold."

¹⁵ Lidia Febrianti, Thamrin Sambah, and Puti Mayang Seruni, "Komparasi Alih Daya Undang-Undang Ketenagakerjaan Dengan Undang-Undang Cipta Kerja Tahun 2023," *Jurnal Usm Law Review* 6, no. 3 (2023): 1193–1209, <https://doi.org/10.26623/julr.v6i3.7965>.

In modern constitutional law studies, the concept of a “living constitution” refers to the understanding of the constitution as a dynamic, adaptive document capable of evolving alongside societal developments; thus, the constitution is not viewed as a rigid text bound strictly to its original meaning at the time of its initial formulation or ratification. This concept emphasizes that the constitution must be able to respond to social, political, cultural, and economic changes, while remaining relevant in meeting the complex and diverse needs of modern society.¹⁶ The living constitution approach differs fundamentally from the originalism approach, which traditionally emphasizes the original framers’ intent (original intent) or the textual meaning of the constitution at the time of ratification, as developed by Antonin Scalia in the United States and highlights fidelity to the document’s literal meaning and the historical context of its formation. In contrast, the living constitution approach emphasizes an interpretive framework that is evolutionary, flexible, and responsive to contemporary social, economic, and political contexts, with the primary aim of maintaining the constitution’s relevance to the needs of modern society, addressing global dynamics, and responding to the challenges of an ever-changing era. This approach critically highlights the limitations of originalism, as a static constitution risks failing to address various contemporary issues, including the protection of modern civil rights, environmental issues, and the complexities of the ever-evolving relationship between the state and society; thus, constitutional adaptation is essential to maintaining legal legitimacy.¹⁷

In modern constitutional law scholarship, the concept of the “living constitution” refers to the understanding that a constitution is a dynamic document that adapts to societal developments; thus, it is not viewed as a rigid text bound entirely to its original meaning at the time of its enactment. This approach differs from originalism, which emphasizes the original intent or textual meaning of the constitution at the time of

¹⁶ Hapsoro and Ismail, “Interpretasi Konstitusi Dalam Pengujian Konstitusionalitas Untuk Mewujudkan The Living Constitution.” hlm. 146–147

¹⁷ Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*, ed. Pan Mohamad Safa’at, Muchamad Ali, Faiz, *Sekretariat Jenderal Dan Kepaniteraan Mahkamah Konstitusi RI*, vol. 1 (Jakarta, 2006).

its creation, whereas living constitutionalism emphasizes an evolutionary interpretation to ensure the constitution remains relevant to social and political changes.¹⁸ In addition to these two approaches, transformative constitutionalism has also emerged in South Africa, viewing the constitution as a means of social transformation to realize a more democratic, participatory, and just society.¹⁹ Pancasila, as a living constitution, exhibits distinct characteristics by combining adaptive constitutional interpretation with enduring constitutional values. Constitutional development may evolve in response to changing democratic realities, but it remains anchored to Pancasila as the *staatsfundament* norm of the Indonesian constitutional order. The values of belief in God, humanity, unity, democracy, and social justice remain the normative foundation for the development of state governance practices and constitutional interpretation in Indonesia.²⁰

Within this framework, the constitutional court acts as a “gatekeeper” that brings the constitution to life through various methods of interpretation, including teleological, historical, and contextual approaches, ensuring that legal norms remain capable of adapting to dynamic socio-political changes and the evolving needs of society over time.²¹ In Indonesia, the Constitutional Court (MK) applies this principle of the living constitution in practice through its rulings, particularly in constitutional review, where the constitution actively transforms into a living constitution capable of accommodating various

¹⁸ Lawrence B Solum, “Originalism Versus Living Constitutionalism : The Conceptual Structure Of The Great Debate *,” *Northwestern University Law Review* 113, no. 6 (2019): 1243–96, <https://doi.org/https://doi.org/10.1080/02587203.1998.11834974>.

¹⁹ Shailja Joshi and Gharuan Mohali Punjab, “Transformative Constitutionalism In The Global South : A Study of India and South Africa A Comparative Legal Analysis of Constitutional Transformation,” *Journal of Emerging Technologies and Innovative Research* 12, no. 11 (2025): 699–719, <https://doi.org/https://doi.org/10.56975/jetir.v12i11.571086>.

²⁰ Muhammad Fauzan, Tedi Sudrajat, and Sri Wahyu Handayani, “Constitutionalism in a Post-Colonialism State : Socio-Cultural and Historical Perspective of Indonesian Constitution Identity,” *Revista de Estudos Constitucionais, Hermenêutica e Teoria Do Direito* 11, no. 1 (2019): 23–43, <https://doi.org/10.4013/rechtd.2019.111.02>.

²¹ *Ibid.*

changes in public needs and aspirations, while simultaneously strengthening the principles of democracy and the rule of law.²² Nevertheless, this concept is not without criticism, particularly regarding the risk of judicial subjectivity in interpreting the constitution, which has the potential to lead to differing interpretations. However, proponents of the living constitution argue that without this capacity for adaptation and evolution, the constitution would lose its legitimacy as an effective, responsive, and relevant instrument of governance, thereby failing to adequately address contemporary socio-political challenges, including issues of political fragmentation, social inequality, and increasingly complex demands for public participation.²³

2. Pancasila as the Philosophical Foundation of the Indonesian Constitution

Pancasila occupies a highly strategic and fundamental position within Indonesia's constitutional system, serving simultaneously as the primary foundation of the state and the source of all sources of law, or, in legal terminology, the *staatsfundament*, a fundamental norm that serves as the reference point for the entire national legal system. This position is clearly and explicitly affirmed in the Preamble to the 1945 Constitution of the Republic of Indonesia, which establishes Pancasila as the highest philosophical foundation and the primary basis for the entire formal constitutional framework and applicable national legal norms.²⁴ The fundamental values embodied in Pancasila consist of five main principles, each possessing profound meaning and a crucial normative function in guiding the administration of the state and the formulation of public policy. The first principle, Belief in One Supreme God, affirms the existence of religious and ethical principles that serve as a moral compass for the Indonesian people, while also emphasizing the importance of spiritual belief in shaping the legal and social behavior of

²² Hapsoro and Ismail, "Interpretasi Konstitusi Dalam Pengujian Konstitusionalitas Untuk Mewujudkan The Living Constitution." hlm. 141–143

²³ D.A. Jeremy Telman, "The Structure of Interpretive Revolutions," *SSRN Electronic Journal* 35.2, no. 2018 (2020), <https://doi.org/10.2139/ssrn.3532584>.

²⁴ Susanto, "Pancasila Sebagai Identitas Dan Nilai Luhur Bangsa: Analisis Tentang Peran Pancasila Sebagai Modal," *Jurnal Ilmiah Ilmu Pemerintahan* 2, no. 1 (2016): 49, <https://doi.org/https://doi.org/10.14710/jiip.v2i1.1634>.

society. Second, *Kemanusiaan yang Adil dan Beradab* (Just and Civilized Humanity) places special emphasis on the protection of human rights and serves as the foundation for fostering fair and dignified interactions among individuals, both in daily life and within the legal and governmental spheres. The third principle, Indonesian Unity, serves as a unifying force for existing diversity, preserving the integrity and unity of the nation amidst diverse cultures, ethnic groups, languages, and religions, thereby ensuring that national identity remains harmoniously preserved. The fourth principle, Democracy Led by the Wisdom of Deliberation and Representation, serves as the foundation for the practice of deliberative democracy, where deliberation and consensus are the primary methods for collective decision-making. Finally, the fifth principle, Social Justice for All Indonesian People, reflects the nation's aspiration to achieve equitable welfare and a fair distribution of resources for all segments of society.²⁵

The relationship between Pancasila and the 1945 Constitution is deeply integral and inseparable; every provision of the Constitution, including those resulting from the 1999–2002 amendments, consistently remains grounded in the values of Pancasila as the primary guide for constitutional interpretation, ensuring that the supremacy of the Constitution remains within the framework of the national ideology that is inherent to and inseparable from the nation's fundamental identity.²⁶ Critically, this strategic position of Pancasila distinguishes Indonesian constitutionalism from Western liberal models, which tend to emphasize individual rights alone, because Pancasila not only affirms individual rights but also ensures a dynamic balance between individual and collective interests, thereby preventing the constitution from being used as a tool for majority domination without regard for the common good. Thus, Pancasila functions as a foundation that is philosophical, normative, and practical, capable of uniting all elements of state life, as

²⁵ Sejarah dan Sosial, "Kedudukan Pancasila Sebagai Dasar Negara Dalam Pembukaan UUD 1945," kumparan.com, 2024, <https://kumparan.com/sejarah-dan-sosial/kedudukan-pancasila-sebagai-dasar-negara-dalam-pembukaan-uud-1945-23gKfeA4dkR>.

²⁶ Pratama et al., "Revitalisasi Konstitusional Berbasis Pancasila Dalam Penghapusan Presidential Threshold," hlm. 74

well as serving as the primary guideline for the administration of an inclusive, just, and democratic state, thereby affirming Pancasila's position as the main pillar in maintaining stability, unity, and justice in national and state life.²⁷

3. Pancasila as a Living Constitution within the Framework of Constitutional Democracy

Pancasila can be accurately characterized as a living constitution within the framework of Indonesia's constitutional democracy because it is not merely normative-statistical or formally rigid, but is also dynamic, adaptive, and responsive to various social, political, cultural, and economic changes without losing its philosophical, ideological, and historical essence, which has been inherent since the formulation of the Preamble to the Constitution of 1945.²⁸ Within this framework, Pancasila functions as an evolutionary guide that breathes life into the 1945 Constitution through the interpretive processes of state institutions, particularly the Constitutional Court, which affirms that the constitution is not a dead document bound solely to its text, but a living entity that continually adapts to societal developments, public aspirations, and the demands of the times. Thus, a Pancasila-based interpretation of the constitution enables state institutions to address various contemporary issues, maintain the relevance of the law, and ensure that governance practices remain aligned with national identity, democratic ideals, and the broader interests of the people.²⁹ The principles of constitutional democracy, which encompass popular sovereignty exercised in accordance with the Constitution, the supremacy of the Constitution, the limitation of power through checks and balances, and the protection of every citizen's constitutional rights, are substantially shaped by the values of Pancasila. In this regard, the value of democracy enables deliberation as a form of political

²⁷ Bambang Soesatyo, Kadir Johnson Rajagukguk, and Heri Wahyudi, "Building Legal Foundation for a Prosperous Indonesia: Insights from MPR-RI Four Pillars," *Yustisia* 12, no. 3 (2023): 240–61, <https://doi.org/10.20961/yustisia.v12i3.71520>.

²⁸ ANTARA, "Wapres: 'Living Constitution' Bisa Saja Diterapkan Di Indonesia," antaranews.com, 2019.

²⁹ Hapsoro and Ismail, "Interpretasi Konstitusi Dalam Pengujian Konstitusionalitas Untuk Mewujudkan The Living Constitution." hlm. 139–147

participation that is inclusive, deliberative, and accommodative of the interests of various groups, while the principle of social justice acts as a safeguard to ensure that procedural democracy does not neglect the social substance that forms the foundation of the common good, thereby ensuring that democratic practices continue to balance individual rights with collective responsibilities.³⁰

Constitutional Court Decision No. 62/PUU-XXII/2024 concerning the presidential threshold reflects a constitutional reasoning that emphasizes equal political opportunity and substantive democratic participation, where the Court highlights that electoral regulations must not impose excessive restrictions that undermine citizens' constitutional rights to nominate and be nominated, as this would weaken the principle of popular sovereignty within Indonesia's constitutional framework. This reasoning demonstrates that the Court moves beyond a purely textual interpretation of electoral norms and instead adopts a substantive constitutional approach that prioritizes fairness and inclusivity in political representation.³¹ In this context, the Court's interpretation aligns with Pancasila values, particularly democratic deliberation (*kerakyatan*) and social justice, as it seeks to correct structural imbalances in electoral access and strengthen democratic legitimacy.³² Accordingly, Pancasila functions not only as a *staatsfundamentálnorm* but also as a living constitutional framework that guides judicial interpretation, ensuring that constitutional development remains adaptive to contemporary political challenges while still being anchored in

³⁰ Elza Ainnun Nazila, "Pancasila and the Existence of a People's Economy: How Indonesia Facing the Global Capitalism?," *Indonesian Journal of Pancasila and Global Constitutionalism* 1, no. 2 (2022): 265–84, <https://doi.org/10.15294/ijpgc.v1i2.59810>.

³¹ Putusan Mahkamah Konstitusi Nomor 62/PUU-XXII/2024 (2024).

³² Djayadi Hanan, Tri Sulistianing Astuti, and Luthfi Widagdo Eddyono, "Electoral Reform Through the Indonesian Constitutional Court : Constitutionality of Presidential Candidacy Threshold in Indonesia Reformasi Elektoral Melalui Mahkamah Konstitusi : Konstitusionalitas Ambang Batas Pencalonan Presiden Di Indonesia," *Jurnal Konstitusi* 22, no. 2 (2025): 260–92.

fundamental philosophical boundaries that prevent interpretive relativism.³³

II. Pancasila and the Dynamics of Constitutional Democracy in the Indonesian Political System

1. *The Concept of Constitutional Democracy in the Indonesian Political System*

Constitutional democracy refers to a system of government that harmoniously combines democratic principles, wherein the highest sovereignty resides with the people as the primary source of all power, with the supremacy of the constitution, which serves both as a check on and a regulator of the exercise of state power. This combination is designed to prevent the tyranny of the majority while simultaneously ensuring the protection of every citizen's constitutional rights, so that every decision and public policy remains within a clear, fair, and measurable legal framework.³⁴ The key characteristics of constitutional democracy include the supremacy of the constitution as the highest legal norm guiding all state administration, the functional separation of powers, and mechanisms of checks and balances that ensure each branch of government can mutually oversee and balance one another. Furthermore, the enforcement of human rights falls under the responsibility of an independent judiciary, thereby creating a dynamic balance between active public participation in the political process and institutional stability that ensures the continuity of government.³⁵

Within the context of Indonesia's constitutional system, this principle of constitutional democracy is clearly reflected in the 1945 Constitution of the Republic of Indonesia as amended in 1999–2002.

³³ Andi Desmon, "Penafsiran Konstitusi Dalam Bingkai Hukum Pancasila," *Jurnal Cendikia Hukum* 3 (2018): 129–37.

³⁴ JDIH Komisi Pemberantasan Korupsi, "SISTEM NEGARA INDONESIA BERDASARKAN TEORI KETATANEGARAAN," jdih.kpu.go.id, 2025, <https://jdih.kpu.go.id/jabar/tasikmalaya/blog/read/18646/sistem-negara-indonesia-berdasarkan-teori-ketatanegaraan>.

³⁵ Ias Muhlashin, "Negara Hukum, Demokrasi Dan Penegakan Hukum Di Indonesia," *JURNAL AL-QADAU PERADILAN Dan HUKUM KELUARGAA ISLAM* 8, no. 1 (2021): 87–100.

Article 1, paragraph (2) affirms that sovereignty resides with the people and is exercised in accordance with the Constitution, while Article 24C grants the Constitutional Court the authority to review laws against the Constitution, ensuring that every regulation and policy remains consistent with the nation's supreme legal framework.³⁶ These amendments simultaneously shifted the paradigm from the authoritarian centralism of the New Order era toward a more inclusive constitutional democracy, by strengthening the roles of the House of Representatives (DPR) and the Regional Representatives Council (DPD) as representatives of the people, and by limiting presidential power through an impeachment mechanism that can be initiated by the People's Consultative Assembly (MPR). Thus, the constitution is no longer merely declaratory but has become a living, effective, and relevant operational instrument in political and legal decision-making.³⁷ Critically, the approach to constitutional democracy in Indonesia is hybrid in nature because it combines elements of modern presidentialism with the Pancasila-based deliberative practices, thereby avoiding liberal extremism that disregards the cultural context, local values, and the traditional wisdom of the nation. In this way, Indonesia's constitutional democracy not only emphasizes individual rights but also balances collective interests, making the administration of the state more inclusive, fair, and in line with the sociocultural character of Indonesian society.³⁸

2. The Development of Constitutional Democracy in Indonesia Since the Reform Era

The development of Indonesia's constitutional democracy in the post-reform era has been marked by structural transformations to the 1945 Constitution of the Republic of Indonesia (UD 1945), which have strengthened various constitutional institutions as the main pillars

³⁶ Rangga Wijaya, "Fungsi Mahkamah Konstitusi Dalam Pengujian Undang-Undang Terhadap Undang-Undang Dasar 1945," *IJOLARES: Indonesian Journal of Law Research* 1, no. 1 (2023): 23–27, <https://doi.org/10.60153/ijolares.v1i1.5>.

³⁷ Widzan Ulum, "Hukum Dan Demokrasi Dalam Perspektif Konstitusional," *stekom.ac.id*, 2025, <https://stekom.ac.id/artikel/hukum-dan-demokrasi-dalam-perspektif-konstitusional>.

³⁸ Sri Praptini, Sri Kusriyah, and Aryani Witasari, "Constitution and Constitutionalism of Indonesia," *Jurnal Daulat Hukum* 2, no. 1 (2019): 7, <https://doi.org/10.30659/jdh.v2i1.4149>.

of state governance. This transformation includes the establishment of the Constitutional Court (MK) in 2003, which plays a strategic role as the guardian of constitutional supremacy, ensuring that all government policies, decisions, and legislative regulations remain within the constitutional framework and align with the country's fundamental legal principles. Furthermore, the establishment of the Corruption Eradication Commission (KPK) provides more intensive oversight of the integrity of public office, focusing on the prevention, prosecution, and monitoring of corrupt practices that could undermine public trust in the government and the legitimacy of state institutions. Equally important, the establishment of the Regional Representatives Council (DPD) is a significant step in expanding political representation at the regional level, so that the aspirations of the people in various provinces, regencies, and cities across Indonesia can be channelled more effectively through legitimate and constitutionally recognized national legislative mechanisms.³⁹

The dynamics of democratic practice are also evident in the evolution of the electoral system, which has shifted from a majoritarian model to an open proportional system since 2009. This change has not only opened up greater opportunities for legislative candidates from diverse backgrounds to compete fairly, but has also created a more inclusive and transparent mechanism for political participation. This phenomenon has also been accompanied by increasing political party fragmentation, particularly following the emergence of several new parties after 2014; while this has enriched political choices, it simultaneously presents unique challenges in inter-party coordination and consolidation. Furthermore, public political participation has shown an upward trend through the simultaneous elections held in 2019 and 2024; however, it remains confronted by the significant issue of high voter abstention rates, which stands as one of the primary challenges for

³⁹ Ari Asmono, "Gagasan Pengaduan Konstitusional Dan Penerapannya Dalam Sistem Ketatanegaraan Indonesia," *Yuridika* 26, no. 3 (2011): 203–18, <https://doi.org/10.20473/ydk.v26i3.273>.

the government, political parties, and election management bodies in fostering a truly participatory and representative democracy.⁴⁰

The period from 2020 to 2026 presents increasingly complex challenges for Indonesia's constitutional democracy. These challenges are not unique to Indonesia but reflect a broader global phenomenon of democratic backsliding observed in various constitutional democracies, characterized by political polarization, declining public trust in public institutions, increasing executive influence, and weakening democratic accountability. Within this context, the concept of Pancasila as a living constitution provides an important case study of how enduring constitutional values may function as safeguards against democratic erosion while maintaining constitutional stability and democratic resilience. The resulting political fragmentation also triggers instability within the presidential coalition following the 2024 elections, adding uncertainty and complexity to the political decision-making process. Critical analysis reveals that while the amendments to the 1945 Constitution succeeded in preventing the concentration of executive power, democratic practices still face serious obstacles, including the dominance of party oligarchies in the nomination process, low levels of public political literacy, and the impact of the pandemic and the 2022–2025 economic crisis, which significantly weakened civic participation and the public's capacity to engage actively in politics. Nevertheless, these developments also open up an important space for the Constitutional Court to develop a more adaptive interpretation of the constitution, enabling this institution to serve as a strategic bridge in realizing the actualization of the nation's foundational values and addressing the challenges of ever-evolving contemporary dynamics.⁴¹

3. The Role of Pancasila in Maintaining a Balance Between Democracy and Governmental Stability

The values of Pancasila, specifically the principle of democracy led by the wisdom of deliberation and representation, the value of

⁴⁰ Fitria Barokah and Hertanto Hertanto, "Disrupsi Politik: Peluang Dan Tantangan Partai Politik Baru Jelang Pemilu 2024," *Nakhoda: Jurnal Ilmu Pemerintahan* 21, no. 1 (2022): 1–13, <https://doi.org/10.35967/njip.v21i1.273>.

⁴¹ Susi Dwi Harijanti, "Sistem Ketatanegaraan Berdasarkan Uud 1945," *Jurnal Ketatanegaraan* 53, no. 9 (1981): 1689–99.

Indonesian unity, and the principle of social justice for all the people, serve as crucial normative principles in maintaining a balance between the expansion of democratic freedoms and the need for governmental stability within Indonesia's constitutional system.⁴² Pancasila does not merely serve as a static and rigid ideological foundation, but also as a dynamic guide that moderates the practice of constitutional democracy to prevent it from falling into destructive populism or political fragmentation that could undermine presidential effectiveness. This is clearly evident through the strengthening of deliberative practices as an alternative to majority voting, which strategically serves to mitigate the potential for identity polarization and maintain social and political cohesion amidst an increasingly pluralistic and diverse society.⁴³ Analytically, the value of unity enshrined in Pancasila curbs excessive electoral competition by emphasizing the importance of diversity and national cohesion, while the principle of social justice ensures that democracy does not merely stop at formal procedures or voting mechanisms alone, but also addresses the substance of society's social, economic, and political life. This is reflected in various Constitutional Court (MK) rulings that interpret economic, social, and cultural rights (EKSOSBUD HR) in the context of post-pandemic inequality, so that the distribution of power and public welfare can be more equitable and just.⁴⁴

Criticism of the role of Pancasila in democratic practice often highlights the potential for its instrumental use by the dominant political regime. However, constitutionally, Pancasila's position as a *staatsfundament* norm in the Preamble to the 1945 Constitution

⁴² Nuria Fatmawati, "Pancasila as a Nation and State Guideline: The Future Challenges," *Jurnal Scientia Indonesia* 4, no. 2 (2018): 145–62, <https://doi.org/10.15294/jsi.v4i2.36042>.

⁴³ Kuswanto, "Penyederhanaan Partai Politik Dalam Sistem Pemerintahan Presidensiil Yang Multi Partai," *Yuridika* 28, no. 2 (2013), <https://doi.org/10.20473/ydk.v28i2.1768>.

⁴⁴ Addriana Della Nasution, Wianda Julita Maharani, and Adam Imam Hamdana, "Analisis Asas Legalitas Substansional Terhadap Putusan Mahkamah Konstitusi Republik Indonesia Nomor: 90/PUU-XII/2023 Dalam Pemilu 2024 Di Indonesia," *Verfassung: Jurnal Hukum Tata Negara* 3, no. 2 (2024): 103–18, <https://doi.org/10.30762/vjhtn.v3i2.489>.

provides strong legitimacy for state institutions, including the Constitutional Court, to correct political and policy deviations. An example of this can be seen in the ruling regarding the presidential threshold, which serves to revitalize inclusive democracy and ensure that democratic mechanisms continue to operate in harmony with the nation's foundational values.⁴⁵ Thus, Pancasila not only provides a normative foundation but also facilitates an adaptive balance, where constitutional democracy guarantees free and fair procedures while maintaining the sustainable stability of governance, opening up further analysis regarding the Constitutional Court's judicial review in actualizing the nation's foundational values in a concrete and practical manner within a contemporary context.⁴⁶

III. The Application of Pancasila Values as a Living Constitution in Constitutional Court Decisions

1. The Role of the Constitutional Court in Interpreting the Constitution

The Constitutional Court (MK) occupies a highly strategic and crucial constitutional position as both the guardian of the constitution and the ultimate interpreter of the constitution within Indonesia's system of government, as explicitly mandated by Article 24C(1) of the 1945 Constitution. This article grants the MK absolute authority to review laws against the constitution, both at the first and final levels, with decisions that are final, binding, and have absolute legal force, so that every decision issued by the MK becomes a primary instrument in consistently and continuously upholding the supremacy of the

⁴⁵ Muhammad Fajar Sidiq Widodo, Munajad Munajad, and Bahru Rosyid Bazla, "Judicial Review Terkait Presidential Threshold Di Mahkamah Konstitusi Dalam Optik Hak Asasi Manusia," *Verfassung: Jurnal Hukum Tata Negara* 1, no. 2 (2022): 181–204, <https://doi.org/10.30762/vjhtn.v1i2.188>.

⁴⁶ El Renova Ed Siregar and Adya P Prabandari, "Dynamics of the Relationship Between Supreme Court and Constitutional Court: Conflict and Collaboration Perspectives," *Jurnal USM Law Review* 7, no. 2 (2020): 729–39.

constitution in Indonesia.⁴⁷ The role of the Constitutional Court is not merely normative, but also dynamic, adaptive, and responsive to social, political, and economic changes occurring in society, enabling this institution to develop constitutional interpretations through various hermeneutic methods, including grammatical, systematic, teleological, and evolutionary approaches. Thus, the Constitutional Court ensures that the country's fundamental values remain relevant, can be effectively implemented, and are capable of adapting to the contemporary context, so that the 1945 Constitution transforms from a mere "documented constitution" into a "living constitution", one that is not merely formally written but also lives and functions tangibly in the practice of governance and democratic life in Indonesia.⁴⁸

Analytically, the Constitutional Court's authority to conduct judicial review allows the constitution to adapt to contemporary challenges without having to go through a lengthy and complex formal amendment process, in which constitutional judges serve as an effective check on both the legislative and executive branches. This role is crucial to ensuring that the supremacy of the constitution remains intact, not undermined by the pressures of populism, oligarchic interests, or short-term political dynamics that could potentially disrupt the balance of the state.⁴⁹ Although critics often highlight the potential for judicial supremacy, which is seen as capable of reducing the space for representative democracy, supporters of the Constitutional Court emphasize that without the consistent application of dynamic interpretation by this institution, the constitution would lose its responsiveness to changes and developments in constitutional democracy. This is particularly important in the context of actualizing the values of Pancasila as the highest source of law and the fundamental guiding principle of the state.⁵⁰ Thus, the Constitutional Court

⁴⁷ Hapsoro and Ismail, "Interpretasi Konstitusi Dalam Pengujian Konstitusionalitas Untuk Mewujudkan The Living Constitution." hlm. 146–147

⁴⁸ *Ibid.*, hlm. 142–147

⁴⁹ Jimly Asshiddiqie, *Konstitusi Dan Konstitusionalisme Indonesia*, ed. Mardian Ahmad, Rofiqul-Umaam, Wibowo, Revisi (Jakarta: Konstitusi Press, 2005).

⁵⁰ Hapsoro and Ismail, "Interpretasi Konstitusi Dalam Pengujian Konstitusionalitas Untuk Mewujudkan The Living Constitution," hlm. 146–147

functions as a crucial constitutional instrument, safeguarding the philosophical essence of the state while ensuring that constitutional interpretation is always grounded in the Preamble to the 1945 Constitution, balancing legal norms with the real needs of society, and upholding the state's foundational principles to remain relevant, applicable, and effective in addressing the ever-evolving contemporary challenges.⁵¹

2. Analysis of Constitutional Court Decisions That Reflect the Values of Pancasila

Several decisions of the Constitutional Court (MK) during the 2020–2026 term explicitly reflect the actualization of the values of Pancasila as a living constitution in the practice of Indonesia's constitutional democracy, particularly through the strengthening of the principles of democracy, social justice, and national unity. One particularly significant example is Decision No. 62/PUU-XXII/2024, which unequivocally abolished the presidential threshold provision in the Election Law. This decision demonstrates an evolutionary constitutional interpretation of Articles 6A and 22E of the 1945 Constitution, in which the Constitutional Court affirmed that a 20 percent threshold for national political party support contradicts the principle of popular sovereignty reflected in the fourth principle of Pancasila. The Court's reasoning emphasized that electoral competition must remain open and accessible in order to preserve meaningful democratic participation and representative government. This constitutional reasoning reflects the substantive dimension of popular sovereignty embodied in the fourth principle of Pancasila. While also violating the principle of social justice contained in the fifth principle. The reasoning is that this threshold limits competitive participation, narrows the space for legitimate candidates to compete, and reinforces the dominance of party oligarchies, thereby creating disparities in

⁵¹ Agung Tri Wicaksono et al., "Praktik Inkonstitusional Pemberhentian Hakim Konstitusi Pada Mahkamah Konstitusi Republik Indonesia," *Verfassung: Jurnal Hukum Tata Negara* 2, no. 1 (2023): 1–24, <https://doi.org/10.30762/vjhtn.v2i1.217>.

political representation.⁵² The Constitutional Court's legal reasoning in this ruling critically addresses the electoral distortions that emerged following the 2019 and 2024 elections, interpreting the principle of popular sovereignty not merely as a formal procedure, but as a substantive concept that is inclusive, adaptive, and capable of responding to evolving socio-political dynamics. Thus, the Constitutional Court has successfully revitalized Pancasila as a dynamic guide for democratic practice in Indonesia, transforming abstract constitutional norms into concrete guidelines for the conduct of national governance and politics.⁵³

Similarly, Decision No. 135/PUU-XXII/2024, which mandates the separation of national and regional elections starting in 2029, contradicts the principle of popular sovereignty reflected in the fourth principle of Pancasila. The Court's reasoning emphasized that electoral competition must remain open and accessible in order to preserve meaningful democratic participation and representative government. This constitutional reasoning reflects the substantive dimension of popular sovereignty embodied in the fourth principle of Pancasila. This decision is intended to address voter fatigue resulting from continuous simultaneous elections, as well as to minimize political fragmentation, while ensuring that regional representation is not marginalized. In this context, the Constitutional Court adopted a teleological approach, emphasizing the constitutional objective of ensuring state stability without sacrificing regional political rights or the broader democratic participation of the public.⁵⁴ Furthermore, in the context of reviewing the Job Creation Law through Decision No. 91/PUU-XVIII/2020 and subsequent decisions between 2021 and 2025, the Constitutional Court emphasized the importance of the principle of just and civilized

⁵² UMS, "Presidential Threshold Resmi Dihapus MK, Babak Baru Demokrasi RI?," [ums.ac.id](https://www.ums.ac.id/berita/teropong-jagat/presidential-threshold-resmi-dihapus-mk-babak-baru-demokrasi-ri), 2025, <https://www.ums.ac.id/berita/teropong-jagat/presidential-threshold-resmi-dihapus-mk-babak-baru-demokrasi-ri>.

⁵³ Nasution, Maharani, and Hamdana, "Analisis Asas Legalitas Substansional Terhadap Putusan Mahkamah Konstitusi Republik Indonesia Nomor: 90/PUU-XII/2023 Dalam Pemilu 2024 Di Indonesia."

⁵⁴ Apwan Riadi Parapat and Khalid, "Analisis Putusan Mahkamah Konstitusi Nomor 135 Puu-Xxii/2024 Tentang Pemisahan Pemilu Nasional Dan Pemilu Daerah Perspektif Siyasa Dusturiyah," *QANUN: Journal of Islamic Laws and Studies* 4, no. 1 (2025): 527–37, <https://doi.org/10.58738/qanun.v4i1.931>.

humanity, as reflected in the second principle of Pancasila. This is realized through the interpretation of Articles 27 and 28 of the 1945 Constitution, which invalidate discriminatory provisions against workers, in order to uphold the principle of social justice. Although some have criticized the Constitutional Court's incremental and not entirely radical approach, this ruling remains a significant step in upholding constitutional values and the principles of Pancasila in the practice of governance.⁵⁵ Critical analysis shows that the Constitutional Court's rulings during this period were not merely descriptive of the constitutional text but also argumentative and substantive, as they sought to integrate the values of Pancasila as a concrete framework for legal interpretation. Important precedents such as Rulings 005/PUU-IV/2006 and 14/PUU-XI/2013 exemplify how the Constitutional Court transforms abstract constitutional norms into concrete solutions to various inequalities in democracy, ensuring that the principle of the "living constitution" is not merely theoretical but is implemented as a tangible, adaptive, and practical practice in addressing contemporary political challenges in Indonesia.⁵⁶

3. The Implications of the Constitutional Court's Ruling for the Strengthening of Constitutional Democracy

The implications of the Constitutional Court's (MK) rulings for Indonesia's constitutional democracy are twofold, both strengthening and posing challenges to the process of actualizing the values of Pancasila as a living constitution. First, MK rulings such as No. 62/PUU-XXII/2024 significantly strengthen the protection of the constitutional rights of all citizens by expanding access to popular sovereignty. This decision not only maintains the balance of power between the legislative

⁵⁵ Mastur Mastur and Feri Irawan, "Dampak Putusan Mahkamah Konstitusi Nomor 91 / PUU-XVIII / 2020 Tentang Pengujian Undang-Undang Cipta Kerja Terkait Inkonstitusional Bersyarat Ketidaksinkronan Berbagai Macam Peraturan Perundang-Undangan Yang Ada Di Indonesia Menurut Majelis Hakim Konstitu," *Jurnal Usm Law Review* 6, no. 3 (2023): 1295–1306, https://journals.usm.ac.id/index.php/julr/article/view/8044?utm_source.

⁵⁶ Hapsoro and Ismail, "Interpretasi Konstitusi Dalam Pengujian Konstitusionalitas Untuk Mewujudkan The Living Constitution," hlm. 142–144

and executive branches by reducing the dominance of major parties, but also ensures that the democratic values of Pancasila remain a solid normative foundation for the conduct of inclusive and fair elections. Thus, this decision enhances the legitimacy of the post-2024 election presidential process while strengthening public political participation, which in turn encourages active citizen engagement in determining the direction of government and national policy.⁵⁷ Second, the separation of national and regional elections as stipulated in Decision No. 135/PUU-XXII/2024 contributes significantly to enhancing governmental stability by reducing the logistical burden arising from the conduct of simultaneous elections and simultaneously minimizing the political polarization that occurs concurrently. This decision also reflects the application of the value of unity as a principle that curbs excessive procedural democracy, thereby preserving national cohesion and preventing the political process from fragmentation that would harm the broader public interest.⁵⁸

Critically, the implications of these rulings enrich the practice of constitutionalism in Indonesia through a hybrid model that integrates Western-style “living constitution” principles with the distinctive and contextual values of Pancasila, in which the Constitutional Court serves as the primary catalyst for constitutional adaptation without altering the state’s ideological essence.⁵⁹ However, significant challenges remain, particularly regarding the limitations of constitutional adjudication, such as the risk of interpretive subjectivity that can be manipulated by certain political dynamics, for example, the controversy surrounding the political dynasty in 2023, as well as the reliance on the quality of judges, who remain vulnerable to external pressure or intervention.⁶⁰

⁵⁷ Rahmayanti and Yasin, “Implikasi Putusan MK No 62 Tahun 2024 Terkait Penghapusan Presidential Threshold.”

⁵⁸ Rahma Fatullah, Ahmad Ari, Agung, M., Maghfur, Meladiah, “Implikasi Konstitusional Dan Sistemik: Analisis Putusan MK Nomor 135/PUU-XXII/2024 Tentang Pemisahan Pemilu Nasional Dan Pilkada,” *ELQONUN: JURNAL HUKUM KETATANEGARAAN* 3, no. 1 (2025): 41–42, <https://doi.org/https://doi.org/10.19109>.

⁵⁹ Fatullah, Ahmad Ari, Agung, M., Maghfur, Meladiah.

⁶⁰ Abin Rifa Aldani, Ali Abdurrahman, and Lailani Sungkar, “The Application of Judicial Activism in the Constitutional Court Decision Number 90/PUU-XXI/2023

Furthermore, the Constitutional Court has not yet fully addressed structural issues such as political corruption that erodes the institution's legitimacy, as well as low public participation, which demands a more progressive and responsive interpretation of the Constitution regarding the principle of social justice, including the more substantive integration of the public's economic rights.⁶¹ Nevertheless, overall, these rulings affirm that Pancasila continues to serve as the *staatsfundament* norm of the Indonesian constitutional order, providing a permanent normative foundation for constitutional governance. Through the Constitutional Court's constitutional interpretation, however, the values embodied in Pancasila may be applied adaptively to respond to evolving democratic challenges. Accordingly, the permanence of Pancasila as a *staatsfundament* norm coexists with the dynamic development of its constitutional interpretation and institutional application. The fundamental values of Pancasila remain unchanged, while their constitutional implementation adapts to evolving democratic circumstances.⁶²

C. Conclusion

This study affirms that Pancasila is viewed not merely as a static philosophical foundation as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia, but as a living constitution within Indonesia's system of constitutional democracy. Pancasila functions as a permanent normative framework whose fundamental values remain unchanged as the philosophical foundation of the state. Through contextual constitutional interpretation and state practice, the implementation of those values continues to develop in response to social

Regarding the Age Requirements for Presidential and Vice Presidential Candidates in Relation to the Theory of Legal Purpose," *Krtha Bhayangkara* 18, no. 3 (2024): 587–95, <https://doi.org/10.31599/krtha.v18i3.3231>.

⁶¹ Brahman et al., "Analisis Prinsip Demokrasi Dalam Konstitusi Indonesia: Tinjauan Terhadap Implementasi Dan Tantangannya."

⁶² Geofani Milthree Saragih, Ade Sathya Sanathana Ishwara, and Rengga Kusuma Putra, "Evaluasi Penerapan Nilai-Nilai Pancasila Dan Penegakan Hak Asasi Manusia Dalam Sistem Peradilan Indonesia Melalui Pendekatan Konstitusional," *JRH: Jurnal Revolusi Hukum* 28, no. 3 (2024): 202–17, <https://doi.org/doi.org/10.46257/jrh.v28i3.1082>.

and political changes without altering their essential substance. The fundamental values of Pancasila, namely belief in God, humanity, unity, democracy, and social justice for all people, provide a solid foundation for the 1945 Constitution to remain relevant and capable of responding to contemporary challenges. This demonstrates that Pancasila is not only a formal written norm, but also a living guideline that directs the practice of Indonesia's constitutional democracy to remain inclusive, just, and oriented toward the overall welfare of society. The role of the Constitutional Court as the guardian of the constitution becomes crucial in demonstrating the actualization of these Pancasila values. The Court's interpretation through judicial review is not only normative, but also substantive and adaptive, allowing the constitution to adjust to political and social dynamics without undergoing a lengthy and complex formal amendment process. Several Constitutional Court decisions clearly reflect the application of the living constitution principle, such as Decision Number 62/PUU-XXII/2024, which abolished the presidential threshold, demonstrating an evolutionary interpretation of Articles 6A and 22E of the 1945 Constitution, and emphasizing that the threshold, which previously limited presidential candidate competition, could reduce popular sovereignty and strengthen the dominance of major political parties. With the removal of this provision, the principle of democracy in Pancasila is implemented in a more inclusive manner, allowing broader opportunities for the public to participate in elections in a fair and competitive way.

Moreover, Decision Number 135/PUU-XXII/2024, which distinguishes between national and regional elections starting in 2029, reflects the actualization of the values of unity and political stability. This separation aims to reduce logistical burdens, prevent voter fatigue, and minimize political fragmentation, while still maintaining adequate regional representation. These Constitutional Court decisions not only address the research questions regarding the understanding of the living constitution of Pancasila and the role of the Constitutional Court, but also demonstrate how judicial review can bring the constitution to life as a responsive instrument in addressing political fragmentation and post-2024 electoral dynamics. The implications of this for strengthening

constitutional democracy are substantial, as the Court's decisions reinforce the balance between public participation, constitutional supremacy, and governmental stability. Pancasila remains the foundational norm of the state that connects Western constitutionalism theory with Indonesia's socio-political context, ensuring that democracy does not fall into empty proceduralism and continues to reflect substantive realities in political life. This study contributes significantly to the field of constitutional law by enriching the discourse on the living constitution of Pancasila, offering a new analytical framework that is adaptive and applicable, and affirming a strong local identity. Thus, Pancasila functions as a point of convergence between universal constitutionalism theory and Indonesian constitutional practice. By combining enduring constitutional values with adaptive constitutional interpretation, the Pancasila model offers a potential framework for strengthening democratic resilience and addressing democratic backsliding in emerging constitutional democracies.

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Acknowledgment

None.

Funding Information

None.

Conflicting Interest Statement

None.

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The author declares that this work is original and has not been previously published in any form or medium, nor is it currently under consideration for publication in any other journal. All sources used in this work have been properly cited in accordance with applicable academic citation standards.

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