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Post-Inauguration Annulment of Vice-Presidential Educational Qualifications in Indonesia: Doctrinal Fiqh Siyasah Analysis

Pembatalan Pasca-Pelantikan Syarat Pendidikan Wakil Presiden di Indonesia: Analisis Doktrinal Fiqh Siyasah

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Abstract

Post-inauguration judicial annulment of an executive official's educational equivalency certificate exposes a profound constitutional tension between formal electoral finality and substantive qualification integrity. This study examined Indonesia's unprecedented 2026 constitutional crisis following Constitutional Court Decision Number 01/PHPU.PRES-XXIV/2026, Supreme Court Cassation Decision Number 742 K/TUN/2026, the ministerial revocation of High School Equivalency Certificate Number 9149/D.D1/KS/2019, and Vice President Gibran Rakabuming Raka's resignation on November 12, 2026. Applying doctrinal legal research through statutory, case, conceptual, and bounded comparative approaches, this study analyzed official judicial rulings alongside classical Fiqh Siyasah treatises and modern public law scholarship. The findings show that statutory educational credentials codify objective administrative eligibility, while an inaugural oath (bai'at) functions as a conditional public covenant that cannot cure defective credentials. Although voluntary resignation (al-istiqalah) under Article 8(2) mooted discretionary impeachment under Articles 7A and 7B, the de facto officer doctrine preserves good-faith official acts lawfully executed during prior executive tenure.

Abstrak

Pembatalan yudisial pasca-pelantikan atas surat keterangan penyetaraan pendidikan pejabat eksekutif menyingkap ketegangan konstitusional yang sangat mendalam antara finalitas elektoral formal dan integritas syarat kelayakan substantif. Penelitian ini mengkaji krisis konstitusional Indonesia tahun 2026 menyusul Putusan Mahkamah Konstitusi Nomor 01/PHPU.PRES-XXIV/2026, Putusan Kasasi Mahkamah Agung Nomor 742 K/TUN/2026, pencabutan Surat Keterangan Penyetaraan Nomor 9149/D.D1/KS/2019, serta pengunduran diri Wakil Presiden Gibran Rakabuming Raka pada 12 November 2026. Menggunakan penelitian hukum doktrinal melalui pendekatan perundang-undangan, kasus, konseptual, dan komparatif terbatas, studi ini menganalisis putusan resmi bersama kitab klasik Fiqh Siyasah serta literatur hukum publik modern. Temuan membuktikan bahwa kualifikasi pendidikan undang-undang mengodifikasi kelayakan administratif objektif, sementara sumpah jabatan (bai'at) merupakan akad publik bersyarat yang tidak memutihkan cacat syarat dasar. Meski pengunduran diri sukarela (al-istiqalah) menurut Pasal 8 ayat (2) menghentikan proses pemakzulan diskresioner Pasal 7A dan 7B, doktrin pejabat de facto tetap menjaga keabsahan tindakan jabatan yang sah dan beritikad baik selama masa jabatan.

A. INTRODUCTION

1. Background

On October 6, 2026, the Constitutional Court of the Republic of Indonesia (*Mahkamah Konstitusi*) pronounced Decision Number 01/PHPU.PRES-XXIV/2026, recording in its legal considerations that no convincing evidence had been produced during trial to prove that Vice President Gibran Rakabuming Raka possessed an overseas diploma, certificate, or graduation credential equivalent to senior high school under Article 169 letter r and Article 227 letter l of Law Number 7 of 2017 on General Elections.[1] Although the Constitutional Court declared the petition inadmissible (*niet ontvankelijk*) because the twelve petitioners—civic organizations, a political party, and individual citizens rather than competing 2024 presidential candidates—lacked statutory legal standing, the evidentiary observation proved consequential. Twenty-four days later, on October 30, 2026 (with the full decision text uploaded on November 10, 2026), the Supreme Court (*Mahkamah Agung*) issued Cassation Decision Number 742 K/TUN/2026, overturning lower administrative court rulings, declaring High School Equivalency Certificate Number 9149/D.D1/KS/2019 dated August 6, 2019 void, and ordering the Director General of Primary and Secondary Education to revoke it.[2] On November 12, 2026, the Ministry of Primary and Secondary Education officially revoked the certificate,[3] and on the same day Vice President Gibran Rakabuming Raka submitted his written resignation to the leadership of the People's Consultative Assembly (*Majelis Permusyawaratan Rakyat* or MPR), rendering the vice-presidential seat vacant as of November 12, 2026.[4] This study analyzes these legal developments as of November 22, 2026, while the MPR's sixty-day constitutional succession process under Article 8 paragraph (2) of the 1945 Constitution remains underway.

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[1] Constitutional Court of the Republic of Indonesia, Decision Number 01/PHPU.PRES-XXIV/2026, pronounced October 6, 2026, https://s.mkri.id/public/content/persidangan/putusan/putusan_mkri_15075_1791296266.pdf.
[2] Supreme Court of the Republic of Indonesia, Cassation Decision Number 742 K/TUN/2026, decided and published via e-Court October 30, 2026, full text released November 10, 2026, Case Information Directory, https://kepaniteraan.mahkamahagung.go.id/perkara/case/e5a654d3-c08e-4b8d-b230-0b18eff6f00f.
[3] Hukumonline, "Kemendikdasmen Resmi Cabut Suket Penyetaraan Pendidikan SMA Gibran" [Ministry of Primary and Secondary Education Officially Revokes Gibran's High School Equivalency Certificate], November 12, 2026, https://www.hukumonline.com/berita/a/kemendikdasmen-resmi-cabut-suket-penyetaraan-pendidikan-sma-gibran-lt6af57a4f65792/.
[4] People's Consultative Assembly of the Republic of Indonesia (MPR RI), "MPR RI Terima Surat Pengunduran Diri Gibran Rakabuming Raka dari Jabatan Wakil Presiden" [MPR RI Receives Resignation Letter of Gibran Rakabuming Raka from the Office of Vice President], November 12, 2026, https://www.mpr.go.id/berita/mpr-ri-terima-surat-pengunduran-diri-gibran-rakabuming-raka.

These rapidly unfolding events exposed an unprecedented doctrinal collision in Indonesian constitutional law between procedural electoral finality (*das Sein*) and substantive qualification legitimacy (*das Sollen*). Under Article 6 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) and Article 169 letter r of the Election Law, holding at least a senior high school diploma or its statutory equivalent is a mandatory prerequisite for presidential and vice-presidential office.[5] When the sole administrative decree certifying that equivalence is judicially invalidated two years after the inaugural oath of office (October 20, 2024)—and the officeholder subsequently resigns—two urgent constitutional questions remain unresolved by the resignation itself. First, does an inaugural oath (*bai'at* in *Fiqh Siyasah*, or Islamic constitutional jurisprudence) insulate an officeholder from an *ab initio* defect in mandatory statutory qualifications, and how does an administrative court's annulment of a ministerial decree interact with the constitutional removal framework of Articles 7A and 7B? Second, once resignation terminates tenure under Article 8 paragraph (2), what is the legal validity of official state acts executed during the preceding two years of service?

Existing legal scholarship over the past three years frames these tensions across three competing debates, yet none directly resolves post-inauguration qualification annulment followed by executive resignation. In the first debate—concerning judicial formalism versus substantive constitutional justice—Saputra, Isra, Fahmi, and Faiz, alongside Nurhayati and Saputri, argue that electoral adjudication should prioritize substantive constitutional integrity and conditional finality when foundational eligibility norms are compromised,[6] a view reinforced by Pratama and Muna's defense of progressive judicial reasoning.[7] Conversely, Chofifi and Kusdarini as well as Suryanata and Mubarrak demonstrate that the Constitutional Court's strict adherence to statutory timelines and standing rules in presidential election disputes systematically forecloses

[5] Republic of Indonesia, 1945 Constitution of the Republic of Indonesia (*Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*), arts. 6(2), 7A, 7B, and 8(2); Republic of Indonesia, Law Number 7 of 2017 on General Elections, State Gazette Year 2017 Number 182, arts. 169(r) and 227(l).
[6] Muchtar Hadi Saputra et al., "Substantive Justice in Resolving Election Result Disputes: Protecting Citizens' Constitutional Rights," *Jurnal Konstitusi* 23, no. 3 (2026): 766–790, https://doi.org/10.31078/jk23310; Siti Nurhayati and Fenolia Intan Saputri, "Conditional Finality and Constitutional Rehearing: Recalibrating Judicial Integrity in Indonesia's Constitutional Court," *Jurnal Konstitusi* 23, no. 2 (2026): 205–236, https://doi.org/10.31078/jk2321.
[7] Aditya Andela Pratama and Kholifatul Muna, "Dissenting Opinions as a Manifestation of Progressive Law in Safeguarding Electoral Integrity," *Jurnal Konstitusi* 23, no. 2 (2026): 401–427, https://doi.org/10.31078/jk2328.

substantive review once electoral stages conclude.[8] In a second debate, Wicaksono and Hantoro together with Kurniawan and Ramadhani examine how disputes over vice-presidential eligibility thresholds and executive neutrality strain democratic legitimacy, though their analyses focus on pre-election rule-making rather than post-inauguration administrative revocation.[9] In a third cluster bridging positive law and *Fiqh Siyasah*, Marina, Maimun, and Amrullah analyze the Constitutional Court's *siyasah qadha'iyyah* (judicial governance) authority to disqualify a regional head candidate in Pesawaran Regency for lacking a valid high school diploma, while Ramadhan, Saebani, and Sutiana assess candidacy rules through *siyasah dusturiyah* (Islamic constitutional law).[10] In administrative law, Ramdi et al. and Klausula highlight the structural gap between juridical annulment of defective administrative decrees (*Keputusan Tata Usaha Negara* or KTUN) and factual institutional recovery,[11] whereas international public law scholars

[8] Ning Ayunda Chofifi and Eny Kusdarini, "Perkembangan Putusan Mahkamah Konstitusi dalam Menangani Perkara Perselisihan Hasil Pemilihan Umum Presiden" [Development of Constitutional Court Decisions in Handling Presidential Election Result Disputes], *Jurnal Hukum Ius Quia Iustum* 31, no. 2 (2024): 381–404, https://doi.org/10.20885/iustum.vol31.iss2.art8; Andi Redani Suryanata and Muhammad Zaki Mubarrak, "Analisis Putusan Mahkamah Konstitusi Nomor 1/PHPU.PRES-XXII/2024 tentang Perselisihan Hasil Pemilihan Umum Presiden Tahun 2024 dalam Memaknai Peran Presiden di Pemilihan Umum" [Analysis of Constitutional Court Decision No. 1/PHPU.PRES-XXII/2024 on the 2024 Presidential Election Dispute], *UNES Law Review* 6, no. 4 (2024): 12173–12183, https://doi.org/10.31933/unesrev.v6i4.2191.

[9] Dian Agung Wicaksono and Bimo Fajar Hantoro, "Pemaknaan Putusan Pluralitas dalam Syarat Pencalonan Presiden dan Wakil Presiden: Kajian Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023" [Interpretation of Plurality Decisions in Presidential and Vice-Presidential Candidacy Requirements], *Jurnal Yudisial* 17, no. 2 (2024): 147–166, https://doi.org/10.29123/jy.v17i2.702; M. Beni Kurniawan and Sri Ayu Ramadhani, "Constitutional Analysis of Presidential Neutrality in Presidential Elections: To Establish Substantive Democracy," *Jurnal Konstitusi* 22, no. 3 (2025): 575–598, https://doi.org/10.31078/jk2238.

[10] Aisyah Luna Marina, Maimun, and M. Dani Fariz Amrullah D., "Analisis Siyasah Qadha'iyyah terhadap Kewenangan Mahkamah Konstitusi dalam Diskualifikasi Calon Bupati Pesawaran Lampung" [Siyasah Qadha'iyyah Analysis of the Constitutional Court's Authority in Disqualifying the Pesawaran Regent Candidate], *Islamic Law: Jurnal Siyasah* 11, no. 2 (2026): 192–210, https://doi.org/10.53429/iljs.v11i2.2826; D. A. Ramadhan, Beni Ahmad Saebani, and Y. Sutiana, "Tinjauan Siyasah Dusturiyah terhadap Putusan MK Nomor 60/PUU-XXII/2024 tentang Ambang Batas Pencalonan Kepala Daerah pada Pilkada 2024" [Siyasah Dusturiyah Review of Constitutional Court Decision No. 60/PUU-XXII/2024 on Regional Head Candidacy Thresholds], *Ranah Research: Journal of Multidisciplinary Research and Development* 8, no. 1 (2025): 46–59, https://doi.org/10.38035/rrj.v8i1.1871.

[11] Tansya Hadiansyah Ramdi et al., "Analisis Yuridis terhadap Pembatalan Keputusan Tata Usaha Negara oleh PTUN: Menelaah Alasan Hukum yang Digunakan Hakim dalam Membatalkan KTUN" [Juridical Analysis of the Annulment of State Administrative Decrees by the Administrative Court], *Aliansi: Jurnal Hukum, Pendidikan dan Sosial Humaniora* 3, no. 3 (2026): 91–106, https://doi.org/10.62383/aliansi.v3i3.1678; Albert Wibowo Santoso and Wilma Silalahi, "Pembatalan Tanpa Pemulihan: Kesenjangan antara Pembatalan Yuridis dan Pemulihan Faktual dalam Eksekusi Putusan Pengadilan Tata Usaha Negara" [Annulment Without Recovery: The Gap Between Juridical Annulment and Factual Recovery in Administrative Court Execution], *Klausula: Jurnal Hukum Tata Negara, Hukum Administrasi, Pidana dan Perdata* 5, no. 2 (2026): 102–116, https://doi.org/10.32503/klausula.v5i2.9468.

such as Bray and Bacik examine remedial doctrines for defectively seated officers and the political rationalism of classical *Fiqh Siyasah*.[12]

Because the October–November 2026 rulings and resignation represent an unprecedented event in Indonesian constitutional history, the absence of prior scholarship on post-inauguration vice-presidential qualification annulment is partly an artifact of the event's recency. Nevertheless, a genuine conceptual gap persists: existing Indonesian constitutional and *Fiqh Siyasah* studies overwhelmingly treat candidate disqualification as a pre-inauguration (*qabla al-bai'ah*) electoral matter and rarely integrate administrative annulment, constitutional impeachment limits, *de facto* officer validity, and primary classical Islamic political treatises into a single analytical framework. To address this gap, this study advances the conceptual proposition of retroactive qualification collapse (*inhilal al-syarth ba'da al-bai'ah*) paired with a *de facto* validity safeguard. It argues that while the inaugural oath (*bai'at*) operates as a conditional public covenant that cannot cure a judicially invalidated administrative prerequisite, the Vice President's November 12, 2026 resignation under Article 8 paragraph (2) functionally enacted voluntary withdrawal (*al-istiqalah*)—mooting discretionary impeachment under Articles 7A and 7B while leaving the preservation of good-faith official acts during tenure dependent on the *de facto* officer doctrine and its *Fiqh Siyasah* analogue.

2. Research Questions

Guided by the doctrinal tensions outlined above, this study investigates three interconnected legal questions: First, how did the procedural interplay between Constitutional Court Decision Number 01/PHPU.PRES-XXIV/2026 and Supreme Court Cassation Decision Number 742 K/TUN/2026—particularly the treatment of *obiter dicta* as *notoire feiten* and the circumvention of administrative time-bar and non-party limits—reshape judicial authority over post-inauguration qualification defects? Second, how do the textual and structural limits of Articles 7A and 7B of the 1945 Constitution interact with primary classical *Fiqh Siyasah* doctrines on leadership eligibility (*syurut al-imamah*), conditional *bai'at*, and institutional oversight? Third, following the ministerial revocation

[12] Samuel L. Bray, "Remedies in the Officer Removal Cases," *Journal of Legal Analysis* 17, no. 1 (2025): 236–258, https://doi.org/10.1093/jla/laaf012; Gokhan Bacik, "Al-Mawardi: Islamic Political Theory in the Provincial Order," in *The Birth and Evolution of Islamic Political Theory: Political Rationalism from Ibn al-Muqaffa to Ibn Khaldun* (Edinburgh: Edinburgh University Press, 2024; online ed., 2025), https://doi.org/10.3366/edinburgh/9781399522014.003.0003.

of Certificate Number 9149/D.D1/KS/2019 and the Vice President's resignation on November 12, 2026, how do Article 8 paragraph (2), the *Fiqh Siyasah* principle of *al-istiqalah*, and the comparative *de facto* officer doctrine resolve the constitutional status of the vacancy and official acts performed during tenure?

3. Research Methods

This study applied pure doctrinal legal research[13] to evaluate the normative coherence, jurisdictional boundaries, and doctrinal consequences of post-inauguration educational credential annulment and subsequent vice-presidential resignation in Indonesia. Four integrated legal approaches structured the analysis: a statutory approach examining Indonesian constitutional and legislative norms governing executive eligibility, administrative decrees, and succession; a case approach dissecting the procedural history, legal considerations, and operative orders of the 2026 judicial rulings; a conceptual approach grounding the Islamic public law analysis directly in primary classical *Fiqh Siyasah* treatises; and a bounded comparative approach contrasting Indonesia's institutional design with selected common-law jurisprudence on *de facto* officers and post-election disqualification while explicitly delineating analogical limits. [14]

Primary legal materials consisted of five Indonesian statutory instruments—the 1945 Constitution (Articles 6, 6A, 7A, 7B, 8, 9, and 20A), MPR Decree Number VI/MPR/2001 on the Ethics of National Life, Law Number 5 of 1986 on State Administrative Courts (as amended), Law Number 30 of 2014 on Government Administration (Articles 64 and 66), and Law Number 7 of 2017 on General Elections (Articles 169 letter r and 227 letter l)—alongside four domestic judicial decisions (PTUN Jakarta Decision Number 62/G/2026/PTUN.JKT, PTTUN Jakarta Decision Number 130/B/2026/PT.TUN.JKT, Constitutional Court Decision Number 01/PHPU.PRES-XXIV/2026, and Supreme Court Cassation Decision Number 742 K/TUN/2026), two comparative apex decisions (*Norton v. Shelby County* and *Re Canavan*), and official institutional statements issued by the MPR RI, the DPR RI, and the Coordinating Ministry for Law, Human Rights, Immigration, and Corrections on November 12, 2026. Secondary legal materials comprised exactly 22 peer-reviewed journal articles carrying verifiable

[13] Ryzky Yan Deriza, Wiend Sakti Myharto, and Muhammad Martindo Merta, *Suatu Pembelajaran Penelitian Ilmiah Bidang Ilmu Hukum bagi Mahasiswa* (Bandung: Dira Media Kreasindo, 2026), 272.
[14] Peter Mahmud Marzuki, *Penelitian Hukum*, rev. ed. (Jakarta: Kencana Prenada Media Group, 2021), 133–140; Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Depok: Rajawali Pers, 2021), 24–30.

active Digital Object Identifiers (DOIs) published between 2024 and 2026, 1 peer-reviewed edited book chapter with an active DOI (2024/2025), 5 primary classical *Fiqh Siyasah* treatises (al-Mawardi, Abu Ya'la, al-Juwayni, Ibn Taymiyyah, and Ibn Khaldun), and 6 modern legal books published between 2018 and 2026, supplemented by 3 legal news reports documenting the official release of judicial considerations and ministerial revocation.

All legal materials were collected systematically between October 6, 2026, and November 22, 2026, from the Official Portal of the Constitutional Court (mkri.id), the Case Information Directory of the Supreme Court (kepaniteraan.mahkamahagung.go.id), the National Legal Documentation and Information Network (JDIH Nasional), Crossref, Oxford Academic, Edinburgh University Press, University of Chicago Press, SINTA, and DOAJ. Literature screening used Boolean keyword combinations including "syurut al-imamah", "siyasah dusturiyah", "siyasah qadha'iyyah", "bai'at", "de facto officer doctrine", "notoire feiten", "Putusan MK 01/PHPU.PRES-XXIV/2026", and "Putusan MA 742 K/TUN/2026". Peer-reviewed articles were included only if they possessed active DOIs and directly addressed executive eligibility, administrative annulment, parliamentary oversight, *de facto* officer remedies, or Islamic constitutional theory; tangential studies on unrelated administrative domains, non-scholarly opinion pieces, and unverified bibliographic entries were excluded. Materials were analyzed through systematic, teleological, and comparative doctrinal synthesis to test both the central thesis and its strongest counterarguments.

This study employed pure doctrinal legal research[15] to dissect the normative, jurisprudential, and philosophical architecture governing post-inauguration annulment of executive educational credentials. This research design was selected because the core problem centered on an internal conflict of norms between electoral finality, retroactive administrative invalidation, and constitutional removal standards, requiring rigorous authoritative text analysis rather than empirical fieldwork. To ensure comprehensive coverage of both positive national law and Islamic constitutional jurisprudence, the investigation operationalized three integrated approaches: the statutory approach, the case approach, and the conceptual-comparative approach. The statutory approach examined the hierarchy and normative coherence of Indonesian constitutional and

[15] Deriza, Myharto, and Merta, *Suatu Pembelajaran Penelitian Ilmiah*, 272.

legislative provisions governing executive qualifications, inauguration, administrative decrees, and impeachment. The case approach dissected the judicial reasoning (*ratio decidendi*), evidentiary assessments, and operative orders (*dictum*) of the two apex judicial rulings at the heart of the controversy. The conceptual-comparative approach mobilized classical and contemporary *Fiqh Siyasah* doctrines—specifically *siyasah dusturiyah*, *siyasah qadha'iyah*, and *al-qawa'id al-fiqhiyyah*—and juxtaposed Indonesian constitutional mechanisms with broader comparative public law principles governing defective official appointments. The primary legal materials analyzed in this study comprised: (1) Articles 6, 6A, 7A, 7B, 8, 9, and 20A of the 1945 Constitution of the Republic of Indonesia (*UUD NRI 1945*); (2) People's Consultative Assembly Decree (*Ketetapan MPR*) Number VI/MPR/2001 on the Ethics of National Life; (3) Articles 169 letter r and 227 letter l of Law Number 7 of 2017 on General Elections (State Gazette of the Republic of Indonesia Year 2017 Number 182); (4) Articles 64 and 66 of Law Number 30 of 2014 on Government Administration (State Gazette of the Republic of Indonesia Year 2014 Number 292); (5) Constitutional Court of the Republic of Indonesia Decision Number 01/PHPU.PRES-XXIV/2026 dated October 6, 2026; and (6) Supreme Court of the Republic of Indonesia Cassation Decision Number 742 K/TUN/2026 dated October 30, 2026. Secondary legal materials consisted of 24 peer-reviewed legal journal articles carrying active Digital Object Identifiers (DOIs) published within the last five years (2022–2026) and 8 authoritative books on constitutional law, administrative law, legal research methodology, and *Fiqh Siyasah* published within the last ten years (2018–2026), supplemented by classical treatises including Imam al-Mawardi's *Al-Ahkam al-Sulthaniyyah*.[16] All legal materials were collected systematically between October 6, 2026, and November 12, 2026, from official institutional repositories and international academic databases, including the Official Decision Directory of the Supreme Court (*Direktori Putusan Mahkamah Agung RI*), the Official Portal of the Constitutional Court (*mkri.id*), the National Legal Documentation and Information Network (*JDIH Nasional*), Crossref, Google Scholar, SINTA, and DOAJ. Using search keywords including "*syurut al-imamah*", "*siyasah dusturiyah*", "*siyasah qadha'iyyah*", "*bai'at*", "annulment of administrative decree", "vice-presidential qualification", "Putusan MK 01/PHPU.PRES-XXIV/2026", and "Putusan MA 742 K/TUN/2026", secondary journal sources were

[16] Marzuki, *Penelitian Hukum*, 133–140; Soekanto and Mamudji, *Penelitian Hukum Normatif*, 24–30.

included only if they were published between 2022 and 2026, possessed verifiable active DOIs, and directly addressed constitutional eligibility, judicial review of administrative acts, parliamentary oversight, or Islamic public law, while commentaries focusing solely on criminal diploma forgery without addressing administrative equivalency decrees were excluded. Finally, the collected legal materials were dissected using four specific analytical blades: systematic interpretation to harmonize Article 6 paragraph (2) and Article 7A of the 1945 Constitution with the Election Law and the Government Administration Law; teleological (*purposive*) interpretation to uncover the *ratio legis* of educational qualifications via *Maqashid al-Syari'ah*; deductive legal syllogism structured around the Issue, Rule, Application, and Conclusion (IRAC) framework; and comparative normative synthesis bridging positive constitutional law and *Fiqh Siyasah*.[17]

B. RESULT AND DISCUSSION

1. Procedural Record, Inter-Court Synergy, and the Legal Status of Obiter Dicta

A rigorous doctrinal evaluation of Indonesia's 2026 vice-presidential qualification controversy must begin with an exact reconstruction of the procedural record across both judicial hierarchies. The administrative litigation originated when an individual Indonesian citizen and advocate, H.M. Subhan Palal, filed a state administrative lawsuit at the Jakarta State Administrative Court (*Pengadilan Tata Usaha Negara Jakarta* or PTUN Jakarta) challenging High School Educational Equivalency Certificate Number 9149/D.D1/KS/2019, issued on August 6, 2019, by the Director General of Primary and Secondary Education of the Ministry of Education and Culture. On May 21, 2026, PTUN Jakarta in Decision Number 62/G/2026/PTUN.JKT declared the lawsuit inadmissible (*niet ontvankelijk*), holding that the plaintiff failed to satisfy the strict formal requirements of administrative standing and the ninety-day statutory filing period. On appeal, the Jakarta High State Administrative Court (*Pengadilan Tinggi Tata Usaha Negara Jakarta* or PTTUN Jakarta) issued Decision Number 130/B/2026/PT.TUN.JKT on August 12, 2026, fully affirming PTUN Jakarta's inadmissibility ruling.[18] The plaintiff then lodged a

[17] Marzuki, *Penelitian Hukum*, 171–180.
[18] Jakarta State Administrative Court (PTUN Jakarta), Decision Number 62/G/2026/PTUN.JKT, May 21, 2026; Jakarta High State Administrative Court (PTTUN Jakarta), Decision Number 130/B/2026/PT.TUN.JKT, August 12, 2026; both overturned by Supreme Court of the Republic of Indonesia, Cassation Decision Number 742 K/TUN/2026, October 30, 2026.

cassation petition, which the Supreme Court received on September 23, 2026, and registered as Case Number 742 K/TUN/2026.

While the administrative cassation was pending, twelve petitioners—comprising the Independent Election Monitoring Committee (KIPP) as Petitioner I, the Ummat Party as Petitioner II, constitutional scholar Denny Indrayana as Petitioner III, six retired military officers from the Forum Purnawirawan Prajurit TNI, M. Subhan, Bonatua Silalahi, and Tiurma M.S. Sihombing—filed a presidential election dispute petition before the Constitutional Court registered as Case Number 01/PHPU.PRES-XXIV/2026. Crucially, none of these twelve petitioners were competing presidential or vice-presidential candidate pairs in the 2024 General Election. On October 6, 2026, Chief Justice Suhartoyo pronounced the Constitutional Court's operative order granting the Respondent's exception on legal standing and declaring the petition inadmissible (*niet ontvankelijk*)—not a rejection on the merits—because Article 74 paragraph (1) letter b of the Constitutional Court Law and Article 3 paragraph (1) of Constitutional Court Regulation Number 4 of 2023 (as amended by Regulation Number 2 of 2024) restrict standing in presidential election disputes exclusively to competing candidate pairs.[19] Yet within the same decision, Constitutional Justices Arsul Sani and Adies Kadir read explicit evidentiary observations into the record. Justice Arsul Sani observed that the *certificate of attendance*, *academic records*, and *explanation of grades* underlying Equivalency Certificate Number 9149/D.D1/KS/2019 did not certify completion of a secondary education level, but merely attested to course attendance. Justice Adies Kadir then articulated the Court's institutional boundary in a passage translated here by the authors from the official Indonesian decision text:[20]

> "Although during the trial no convincing evidence was found or obtained by the Court that could show that Gibran Rakabuming Raka possessed a diploma/certificate/graduation credential abroad used as the basis for

[19] Constitutional Court of the Republic of Indonesia, Decision Number 01/PHPU.PRES-XXIV/2026, Legal Considerations on Legal Standing (citing Law Number 24 of 2003 on the Constitutional Court, as amended, art. 74(1)(b), and Constitutional Court Regulation Number 4 of 2023 as amended by Regulation Number 2 of 2024, art. 3(1)); see also Constitutional Court of the Republic of Indonesia (MKRI), Press Release, October 6, 2026, https://mkri.id/berita/mk-tidak-menemukan-bukti-gibran-memiliki-ijazah-slta-atau-sederajat-25893.

[20] Constitutional Court of the Republic of Indonesia, Decision Number 01/PHPU.PRES-XXIV/2026, Legal Considerations read by Constitutional Justice Adies Kadir (authors' English translation from the official Indonesian text); see also Constitutional Justice Arsul Sani's evidentiary reading regarding the certificate of attendance.

> equivalency with a minimum education of graduating from senior high school, Madrasah Aliyah, vocational high school, vocational Madrasah Aliyah, or another equivalent school as intended in the norms of Article 169 letter r and Article 227 letter l of the Election Law, the Court cannot cancel or disqualify Gibran Rakabuming Raka in his position as Vice President as petitioned in the petitum of the Petitioners. The status of candidate ended when the elected candidate was inaugurated and took his oath as Vice President on October 20, 2024, which simultaneously marked the end of the 2024 Presidential and Vice-Presidential Election stages." (Constitutional Court Decision No. 01/PHPU.PRES-XXIV/2026, October 6, 2026, Legal Considerations read by Justice Adies Kadir; authors' translation.)

Reconciling the two strands of the Constitutional Court's reasoning is essential for doctrinal precision. The formal *ratio decidendi* for declaring the petition inadmissible was the petitioners' lack of statutory legal standing under Article 74 paragraph (1) letter b of the Constitutional Court Law. At the same time, the Court reinforced its jurisdictional boundary by explaining why it could not exercise extraordinary substantive intervention despite the evidentiary lacuna: once the elected candidate took the constitutional oath on October 20, 2024, his legal status shifted from electoral candidate to sitting constitutional officeholder, terminating the electoral dispute regime (PHPU). Because the petition failed on the threshold issue of standing and resulted in a *niet ontvankelijk* dismissal rather than a merits adjudication, the Court's evidentiary observations on the absence of a foreign high school diploma constitute *obiter dicta* rather than binding *ratio decidendi*. Characterizing those observations uncritically as self-executing judicial fact-finding (*tabayyun qadha'i*) therefore requires careful qualification.

Three weeks later, on Friday, October 30, 2026, the Supreme Court cassation panel chaired by Prof. Dr. H. Yulius with Associate Justices Dr. Maftuh Effendi and Dr. H. Hari Sugiharto decided and pronounced Cassation Decision Number 742 K/TUN/2026, notified the parties through e-Court on October 30, 2026, and uploaded the full written decision on November 10, 2026.[21] In its operative order (*amar putusan*), the Supreme Court granted H.M. Subhan's cassation petition, annulled PTTUN Jakarta Decision Number 130/B/2026/PT.TUN.JKT and PTUN Jakarta Decision Number 62/G/2026/PTUN.JKT,

[21] Supreme Court of the Republic of Indonesia, Cassation Decision Number 742 K/TUN/2026, October 30, 2026.

adjudicated the dispute directly (*adili sendiri*), declared Equivalency Certificate Number 9149/D.D1/KS/2019 dated August 6, 2019 void (*menyatakan batal*), ordered the Director General of Primary and Secondary Education to revoke the certificate (*mewajibkan Tergugat untuk mencabut*), and imposed court costs of Rp 400,000.[22] In reaching this holding, the Supreme Court treated the Constitutional Court's evidentiary finding in Decision Number 01/PHPU.PRES-XXIV/2026 as a Fact of Common Knowledge (*notoire feiten*) and concluded that issuing an equivalency certificate solely on the basis of attendance and grade records without a graduation diploma violated the administrative principle of formal prudence (*asas kecermatan formal*).[23]

From the standpoint of Indonesian procedural law, the Supreme Court's invocation of *notoire feiten* warrants critical scrutiny rather than reflexive endorsement. Under Article 100 paragraph (2) of Law Number 5 of 1986 on State Administrative Courts, facts already known to the general public (*keadaan yang telah diketahui oleh umum* or *notoire feiten*) do not require formal proof.[24] In classical Indonesian procedural doctrine, *notoire feiten* refers to indisputable public realities—such as historical dates, geographical facts, or widely verified official occurrences—not contested evidentiary inferences drawn from another court's *obiter dicta* in an inadmissible case. Nevertheless, the Supreme Court bridged this doctrinal gap by framing its inquiry strictly around the separate administrative question before it: whether the Ministry's 2019 equivalency decree satisfied objective statutory prerequisites and *asas kecermatan*. Because the underlying administrative dossier examined during the Constitutional Court's public hearings was identical to the ministerial record contested in the administrative suit—and because the Ministry itself did not produce a foreign high school graduation diploma—the Supreme Court treated the non-existence of a graduation diploma in the official record as a publicly

[22] Hukumonline, "Ini 5 Pertimbangan Hukum MA yang Batalkan Surat Penyetaraan Ijazah Gibran" [Five Legal Considerations of the Supreme Court Annulling Gibran's Equivalency Certificate], November 10, 2026, https://www.hukumonline.com/berita/a/ini-5-pertimbangan-hukum-ma-yang-batalkan-surat-penyetaraan-ijazah-gibran-lt6af3f1a84fb59/; Supreme Court of the Republic of Indonesia, Cassation Decision Number 742 K/TUN/2026, operative order (*amar putusan*).
[23] Hukumonline, "Ini 5 Pertimbangan Hukum MA"; CNN Indonesia, "Ini Putusan Lengkap MA Batalkan Suket Penyetaraan SMA Gibran" [Full Supreme Court Decision Annulling Gibran's High School Equivalency Certificate], November 10, 2026, https://www.cnnindonesia.com/nasional/20261110160059-12-1425494/putusan-lengkap-ma-soal-pembatalan-suket-penyetaraan-sma-gibran.
[24] Republic of Indonesia, Law Number 5 of 1986 on State Administrative Courts (as amended by Law Number 9 of 2004 and Law Number 51 of 2009), art. 100(2) ("Facts already known to the public do not require proof"); see also Ridwan HR, *Hukum Administrasi Negara* [State Administrative Law], rev. ed. (Depok: Rajawali Pers, 2022), 252–258.

established judicial fact (*notoire feiten*) corroborating the decree's substantive defect.[25] Even so, relying on *obiter* observations from a *niet ontvankelijk* constitutional ruling stretches Article 100 paragraph (2) to its outer doctrinal limit and highlights the need for clearer inter-court evidentiary rules.

A balanced doctrinal analysis must equally confront four formidable counterarguments raised against Supreme Court Decision Number 742 K/TUN/2026. First, regarding the ninety-day time bar (*tenggang waktu*) under Article 55 of Law Number 5 of 1986 and plaintiff standing, both PTUN Jakarta and PTTUN Jakarta held that the 2019 decree was long past the statutory challenge window and that an individual citizen lacked direct personal injury. The Supreme Court bypassed this procedural barrier by holding that administrative courts retain corrective and remedial authority after electoral dispute windows close whenever an administrative violation implicates the democratic sovereignty and interests of the entire nation.[26] While normatively attractive to substantive-justice theorists such as Saputra et al.,[27] critics rightly warn that relaxing standing and time-bar rules through an elastic "national interest" exception risks eroding administrative legal certainty (*rechtszekerheid*) and transforming *actio popularis* into an open-ended tool for post-election litigation. Second, defenders of electoral finality emphasize the Constitutional Court's exclusive constitutional jurisdiction over presidential election disputes under Article 24C paragraph (1) of the 1945 Constitution; allowing administrative courts to invalidate candidacy documents years after inauguration indirectly destabilizes electoral outcomes that the Constitution intended to settle permanently.[28] Third, administrative law adheres to the presumption of validity (*praesumptio iustae causa*), under which every administrative decree remains legally valid and binding unless and until lawfully revoked or annulled.[29] Fourth, as Coordinating

[25] Hukumonline, "Ini 5 Pertimbangan Hukum MA"; CNN Indonesia, "Ini Putusan Lengkap MA Batalkan Suket Penyetaraan SMA Gibran."
[26] Republic of Indonesia, Law Number 5 of 1986 on State Administrative Courts, art. 55 (90-day filing limitation); Hukumonline, "Ini 5 Pertimbangan Hukum MA" (quoting the Supreme Court's holding that administrative courts possess corrective and remedial authority where administrative violations implicate the democratic sovereignty of the entire nation).
[27] Saputra et al., "Substantive Justice in Resolving Election Result Disputes," 766–790; Nurhayati and Saputri, "Conditional Finality and Constitutional Rehearing," 205–236.
[28] Chofifi and Kusdarini, "Perkembangan Putusan Mahkamah Konstitusi," 381–404; Suryanata and Mubarrak, "Analisis Putusan Mahkamah Konstitusi Nomor 1/PHPU.PRES-XXII/2024," 12173–12183.
[29] Ridwan HR, *Hukum Administrasi Negara*, 245–251 (on the principle of *praesumptio iustae causa*); see also Republic of Indonesia, Law Number 30 of 2014 on Government Administration, State Gazette Year 2014 Number 292, arts. 64 and 66. (Catatan: Dikoreksi dari duplikasi art. 100(2) UU PTUN agar selaras dengan pembahasan praesumptio iustae causa di naskah.)

Minister for Law, Human Rights, Immigration, and Corrections Yusril Ihza Mahendra publicly emphasized following the ruling, Vice President Gibran Rakabuming Raka was not a formal party (*bukan pihak*) to the administrative lawsuit against the Ministry.[30] Although administrative annulment of a state certificate carries *erga omnes* effects regarding the validity of the document itself, a non-party officeholder lacks standing to seek extraordinary judicial review (*peninjauan kembali* or PK) in the administrative suit, raising serious procedural fairness questions about how an administrative decree's annulment affects a separate constitutional status. Recognizing the genuine doctrinal weight of these four counterarguments demonstrates that the 2026 rulings did not present an effortless victory of substance over form, but rather a hard constitutional collision whose structural consequences extend directly into Articles 7A and 7B.

2. Textual and Structural Limits of Articles 7A and 7B and Derivative Electoral Acts

Once Supreme Court Cassation Decision Number 742 K/TUN/2026 declared Equivalency Certificate Number 9149/D.D1/KS/2019 void, legal commentators immediately debated whether that administrative annulment triggered the impeachment clause of Article 7A of the 1945 Constitution—specifically the ground that a President or Vice President is proven to be "no longer fulfilling the requirements as President and/or Vice President" (*tidak lagi memenuhi syarat sebagai Presiden dan/atau Wakil Presiden*).[31] A rigorous doctrinal reading reveals four substantial gaps that prevent any automatic equation between administrative certificate annulment and constitutional removal.

The first gap is textual. In Indonesian constitutional drafting and standard doctrinal commentary by Asshiddiqie, Huda, and Manan, the phrase "no longer" (*tidak lagi*) ordinarily denotes a *supervening* loss of eligibility—a qualification that was validly satisfied at the time of nomination and inauguration but subsequently lapsed during tenure, such as acquiring foreign citizenship voluntarily, suffering permanent physical or

[30] Coordinating Ministry for Law, Human Rights, Immigration, and Corrections (Kemenko Kumham Imipas), "Menko Yusril: Pengunduran Diri Wakil Presiden Gibran Tidak Memerlukan Persetujuan MPR" [Coordinating Minister Yusril: Vice President Gibran's Resignation Does Not Require MPR Approval], November 12, 2026, https://kumham-imipas.go.id/ruang-berita/berita-list/menko-yusril-pengunduran-diri-wakil-presiden-gibran-tidak-memerlukan-persetujuan-mpr; Hukumonline, "Putusan MA Final, Yusril Nilai Gibran Berpotensi Tak Punya Pilihan selain Berhenti atau Diberhentikan" [Supreme Court Ruling Final, Yusril Assesses Gibran Potentially Has No Choice Other Than Resigning or Being Removed], November 10, 2026, https://www.hukumonline.com/berita/a/putusan-ma-final--yusril-nilai-gibran-berpotensi-tak-punya-pilihan-selain-berhenti-atau-diberhentikan-lt6af3de9c6d814/.

[31] Republic of Indonesia, 1945 Constitution, art. 7A; Republic of Indonesia, Law Number 7 of 2017 on General Elections, art. 169(r).

mental incapacity, or losing a statutory qualification after taking office.[32] By contrast, the Supreme Court's annulment of a 2019 equivalency certificate rests on the premise that the administrative defect existed *ab initio*—meaning the statutory graduation requirement was never validly satisfied in the first place. A strict textualist reading therefore argues that an *ab initio* candidacy defect falls outside the closed list of Article 7A grounds (*treason, corruption, bribery, other serious crimes, disgraceful acts, or no longer fulfilling requirements*), belonging instead to pre-inauguration electoral verification. However, a purposive and systematic constitutional interpretation offers a compelling rejoinder: because the presumption of validity (*praesumptio iustae causa*) legally clothed Equivalency Certificate Number 9149/D.D1/KS/2019 as valid at the time of registration and inauguration, the officeholder was *de jure* deemed to fulfill Article 169 letter r until the Supreme Court's final judgment and the Ministry's November 12, 2026 revocation stripped away that legal presumption. From the moment of judicial annulment and ministerial revocation forward, the sitting Vice President "no longer" possessed the legally recognized credential required by statute, thereby bringing the post-inauguration loss of certified eligibility within the functional ambit of Article 7A without rewriting the closed list.

The second gap concerns derivative acts and the interaction between Law Number 30 of 2014 on Government Administration and Law Number 7 of 2017 on General Elections. Under Articles 64 and 66 of Law Number 30 of 2014, an administrative decree found to contain substantive or procedural defects may be revoked or annulled by the issuing authority or by an administrative court, and doctrinal administrative law recognizes that judicial annulment of a voidable or invalid decree generally operates retroactively (*ex tunc*) to extinguish its legal validity from inception.[33] Crucially, however, annulling a 2019 ministerial equivalency certificate does *not* automatically nullify the chain of derivative electoral and constitutional acts built upon it—namely, the General Elections Commission (KPU) decree certifying the 2024 candidate pair, the certified national vote tally, or the MPR's October 20, 2024 inauguration. In Indonesian public law, Law Number 7 of 2017 operates as *lex specialis* governing electoral stages and finality,

[32] Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia* [Constitution and Constitutionalism in Indonesia] (Jakarta: Konstitusi Press, 2021), 152–160; Ni'matul Huda, *Hukum Tata Negara Indonesia* [Indonesian Constitutional Law], rev. ed. (Depok: Rajawali Pers, 2021), 214–222; Bagir Manan, *Lembaga Kepresidenan* [The Presidency], rev. ed. (Yogyakarta: FH UII Press, 2018), 89–96.
[33] Republic of Indonesia, Law Number 30 of 2014 on Government Administration, arts. 64(1)–(3) and 66(1)–(4); Ridwan HR, *Hukum Administrasi Negara*, 245–251.

whereas Law Number 30 of 2014 operates as *lex generalis* governing administrative decrees. Consequently, even when an *ex tunc* administrative annulment destroys the evidentiary foundation of a candidate's registration file, the electoral decree and constitutional investiture remain formally intact until acted upon by the competent constitutional organs through the mechanisms expressly prescribed in the 1945 Constitution.[34] Equally important, Article 169 letter r of the Election Law requires graduation from senior high school or its statutory equivalent; theoretically, an invalidated equivalency certificate would not establish failed qualification if the officeholder possessed an alternative, valid high school diploma or equivalent credential. In the 2026 record, however, both the Constitutional Court and the Supreme Court explicitly noted that no alternative graduation diploma was produced during trial, and the Ministry's prompt revocation of Certificate Number 9149/D.D1/KS/2019 on November 12, 2026 left the statutory qualification unfulfilled.[35]

The third and fourth gaps concern the procedural architecture of Article 7B and the distinction between political discretion and constitutional obligation. Article 7B of the 1945 Constitution establishes a deliberately high, multi-stage supermajority barrier against partisan removal: first, the House of Representatives (DPR) may submit a removal proposal to the Constitutional Court only through its right to express an opinion (*hak menyatakan pendapat* under Article 20A paragraph (2)), requiring a plenary quorum of at least two-thirds of total DPR members and approval by at least two-thirds of members present; second, the Constitutional Court is constitutionally mandated to examine, try, and decide the DPR's opinion within ninety days of receipt; and third, only if the Constitutional Court confirms the legal basis may the MPR convene with a quorum of at least three-quarters of its members and vote for removal by a two-thirds majority of those present.[36] As Sihombing, Depari et al., and Farabi et al. demonstrate, this supermajority design means that initiating impeachment is a discretionary political prerogative of the DPR—heavily shaped by coalition arithmetic—rather than a judicially enforceable legal

[34] Desi Natalia Sihombing, "Pemakzulan dalam Demokrasi Presidensial Indonesia: Antara Legalitas Konstitusional dan Legitimasi Politik" [Impeachment in Indonesian Presidential Democracy: Between Constitutional Legality and Political Legitimacy], *Jurnal Nawala Politika* 3, no. 1 (2025): 35–56, https://doi.org/10.24843/jnp.v3i1.158; Ahmad Yani, "Relasi Kelembagaan dan Pertanggungjawaban Lembaga Negara terhadap Pelaksanaan Putusan Mahkamah Konstitusi" [Institutional Relations and State Organ Accountability in Implementing Constitutional Court Decisions], *Jurnal Konstitusi* 22, no. 2 (2025): 313–331, https://doi.org/10.31078/jk2225.
[35] Hukumonline, "Kemendikdasmen Resmi Cabut Suket Penyetaraan Pendidikan SMA Gibran."
[36] Republic of Indonesia, 1945 Constitution, arts. 7B and 20A(2).

duty.[37] Accordingly, Indonesian positive constitutional law does *not* impose a justiciable "constitutional obligation" on the DPR to initiate removal proceedings following a Supreme Court administrative ruling. While administrative law compelled the Ministry of Primary and Secondary Education to execute the operative order of Decision Number 742 K/TUN/2026 by revoking the certificate—which it did on November 12, 2026—any parliamentary response under Article 7B remained a matter of political accountability and constitutional ethics, not a mandatory legal duty enforceable by courts.

3. Rebuilding Fiqh Siyasah Foundations: Primary Classical Sources, Conditional Bai'at, and Institutional Analogies

To evaluate whether Islamic constitutional jurisprudence (*Fiqh Siyasah*) offers coherent normative guidance for post-inauguration qualification annulment, the analysis must move beyond secondary summaries and engage directly with primary classical authorities—principally Abu al-Hasan al-Mawardi (*Al-Ahkam al-Sulthaniyyah*), Abu Ya'la al-Farra' (*Al-Ahkam al-Sulthaniyyah*), Imam al-Haramayn al-Juwayni (*Ghiyath al-Umam*), Ibn Taymiyyah (*Al-Siyasah al-Syar'iyyah*), and Ibn Khaldun (*Al-Muqaddimah*)—alongside modern scholarship on Islamic constitutionalism.[38] Classical *siyasah dusturiyah* treats public leadership (*al-imamah*) not as a personal entitlement, but as a fiduciary public mandate established to safeguard religion and administer worldly affairs (*hirasat al-din wa siyasat al-dunya*—preserving ethical order and public governance). In the opening chapter of *Al-Ahkam al-Sulthaniyyah*, al-Mawardi enumerates seven core eligibility conditions (*syurut al-imamah*) for the supreme ruler: moral probity (*al-'adalah*), knowledge sufficient for independent juristic reasoning (*al-'ilm al-mu'addi ila al-ijtihad*), soundness of senses, physical soundness, sound administrative judgment (*al-ra'y al-mufdi ila siyasat al-ra'iyyah*), courage, and—in his classical Abbasid context—Quraysh lineage.[39] Abu Ya'la broadly concurs with this framework, while al-Juwayni and Ibn Khaldun

[37] Dhenis A. Depari, Emy Hajar Abra, and Alwan Hadiyanto, "Disfungsi Checks and Balances Legislatif-Eksekutif dan Implikasinya terhadap Kebijakan Publik" [Dysfunction of Legislative-Executive Checks and Balances and Its Implications for Public Policy], *Jurnal USM Law Review* 9, no. 4 (2026): 194–212, https://doi.org/10.26623/julr.v9i4.15339; Muhammad Fawwaz Farhan Farabi et al., "Efektivitas Fungsi Pengawasan DPR di Tengah Dominasi Koalisi Gemuk" [Effectiveness of DPR Oversight Amid Oversized Coalition Dominance], *Jurnal Konstitusi dan Demokrasi* 5, no. 2 (2025): 95–105, https://doi.org/10.7454/JKD.v5i2.1507.

[38] Abu al-Hasan 'Ali ibn Muhammad al-Mawardi, *Al-Ahkam al-Sulthaniyyah wa al-Wilayat al-Diniyyah* [The Ordinances of Government] (Beirut: Dar al-Kutub al-'Ilmiyyah, 2006), 6–9 (on the seven conditions of *imamah*) and 25–30 (on *wazir al-tafwidh* and *wali al-'ahd*); see also Bacik, "Al-Mawardi: Islamic Political Theory in the Provincial Order."

[39] Al-Mawardi, *Al-Ahkam al-Sulthaniyyah*, 6–9, 25–30; Bacik, "Al-Mawardi: Islamic Political Theory."

emphasize functional competence (*kifayah*) and social solidarity (*'asabiyyah*) as the pragmatic anchors of legitimate state authority.[40]

Mapping Indonesia's modern Vice Presidency onto classical *Fiqh Siyasah* categories requires rigorous structural candor rather than loose equation. Contemporary Indonesian *Fiqh Siyasah* literature frequently compares a Vice President (*na'ib al-ra'is*) to al-Mawardi's *wazir al-tafwidh* (plenipotentiary minister delegated broad executive authority).[41] Yet direct inspection of al-Mawardi's *Al-Ahkam al-Sulthaniyyah* reveals two important structural differences: first, *wazir al-tafwidh* was appointed unilaterally by the Caliph rather than jointly elected by popular suffrage on a single ticket; second, al-Mawardi explicitly notes that the eligibility conditions for *wazir al-tafwidh* were *not* completely identical to those of the Imam, specifically exempting the minister from the lineage condition while adding specialized administrative expertise (*kifayah*).[42] Functionally, because Article 8 paragraph (1) of the 1945 Constitution designates the Vice President as the automatic constitutional successor should the President die, resign, be impeached, or become permanently incapacitated, the Indonesian Vice Presidency also shares core structural features with *wali al-'ahd* (the designated successor), whose eligibility al-Mawardi and Abu Ya'la required to satisfy the full qualifications of the supreme office upon accession.[43] The Indonesian Vice Presidency is therefore best conceptualized as a hybrid modern constitutional office that combines the joint democratic mandate of a running mate with the functional accountability of *wazir al-tafwidh* and the succession eligibility standards of *wali al-'ahd*. Because the Vice President stands one constitutional step from assuming full presidential power, the legislative decision in Article 169 letter r of Law Number 7 of 2017 to impose identical baseline qualifications on both President and Vice President aligns coherently with classical succession jurisprudence.

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[40] Muhammad ibn al-Husayn Abu Ya'la al-Farra', *Al-Ahkam al-Sulthaniyyah* [The Ordinances of Government] (Beirut: Dar al-Kutub al-'Ilmiyyah, 2000), 20–24, 31–35; Imam al-Haramayn 'Abd al-Malik al-Juwayni, *Ghiyath al-Umam fi Iltiyath al-Zulam* [The Rescue of Nations from the Confusion of Darkness] (Beirut: Dar al-Minhaj, 2011), 220–234.

[41] Ismail Jalili, *Fiqh Siyasah sebagai Paradigma Hukum Tata Negara: Rekonstruksi Nilai-Nilai Islam dalam Konstitusi dan Kebijakan Publik di Indonesia* [Fiqh Siyasah as a Constitutional Law Paradigm] (Jakarta: Penerbit Marjinal, 2026), 77–90; H. Kamma et al., *Fiqh Siyasah: Simpul Politik Islam dalam Membentuk Negara Madani* [Fiqh Siyasah: Islamic Political Nodes in Forming a Civil State] (Solok: PT Mafy Media Literasi Indonesia, 2023), 54–66.

[42] Al-Mawardi, *Al-Ahkam al-Sulthaniyyah*, 25–30; Bacik, "Al-Mawardi: Islamic Political Theory."

[43] Abu Ya'la, *Al-Ahkam al-Sulthaniyyah*, 20–24, 31–35; al-Juwayni, *Ghiyath al-Umam*, 220–234.

A similarly disciplined bridge is required when relating classical *'ilm* to modern statutory educational credentials. Classical jurists defined *'ilm* as the capacity for independent legal reasoning (*ijtihad*), a standard rooted in pre-modern jurist-caliph ideals that cannot be mechanically equated with a senior high school diploma. Rather, as Bacik observes in analyzing al-Mawardi's political rationalism and as Ibn Taymiyyah argues in *Al-Siyasah al-Syar'iyyah* regarding the selection of capable officials (*al-qawiyy al-amin*—the competent and trustworthy), Islamic public law permits the political community to operationalize abstract leadership virtues through objective, verifiable institutional standards suited to each era.[44] In a modern constitutional *rechtsstaat*, legislative purpose (*ratio legis*) replaces subjective juristic vetting with standardized, publicly verifiable educational baselines—here, senior high school graduation or statutory equivalency—to guarantee equal treatment (*al-musawah*) and prevent arbitrary exclusion. Equally important, *al-'adalah* (integrity and uprightness) must be applied with strict analytical discipline and ethical restraint. Neither Constitutional Court Decision Number 01/PHPU.PRES-XXIV/2026 nor Supreme Court Cassation Decision Number 742 K/TUN/2026 adjudicated personal fraud, forgery, or deceit (*al-tadlis* or *al-ghisysy*) by Gibran Rakabuming Raka; rather, the Supreme Court annulled an administrative decree issued by a ministerial organ for violating formal prudence (*asas kecermatan*).[45] Attributing personal moral culpability without an adjudicated judicial finding of intent conflates administrative invalidity with personal dishonesty. In a balanced *Fiqh Siyasah* analysis, *al-'adalah* in this case pertains strictly to the *institutional and procedural integrity of public credentials*—ensuring that state organs uphold truthful verification standards equally for high officials and ordinary citizens alike, without implying unproven personal misconduct.[46]

With respect to the inaugural oath (*bai'at*), classical *Fiqh Siyasah* provides a robust primary-source foundation for analyzing defective investiture. Al-Mawardi and al-

[44] Taqiyy al-Din Ahmad Ibn Taymiyyah, *Al-Siyasah al-Syar'iyyah fi Ishlah al-Ra'i wa al-Ra'iyyah* [Governance According to Sharia] (Riyadh: Wizarat al-Syu'un al-Islamiyyah, 1998), 14–22; 'Abd al-Rahman Ibn Khaldun, *Al-Muqaddimah* [The Prolegomena] (Beirut: Dar al-Fikr, 2004), 192–198.
[45] Hukumonline, "Ini 5 Pertimbangan Hukum MA"; Supreme Court of the Republic of Indonesia, Cassation Decision Number 742 K/TUN/2026, operative order (*amar putusan*).
[46] Al-Mawardi, *Al-Ahkam al-Sulthaniyyah*, 83–96 (on *wilayatul mazalim* and judicial accountability of state officials); Abu Ya'la, *Al-Ahkam al-Sulthaniyyah*, 73–84; Susilo Hadi Prayoga, "Politik Hukum dalam Penentuan Batas Usia Capres dan Cawapres di Indonesia Perspektif Fiqh Siyasah" [Legal Politics in Determining Presidential and Vice-Presidential Age Thresholds in Indonesia from a Fiqh Siyasah Perspective], *El-Dusturie: Jurnal Hukum dan Perundang-Undangan* 3, no. 2 (2024): 105–122, https://doi.org/10.21154/eldusturie.v3i2.9197.

Juwayni conceptualize *bai'at* (*'aqd al-imamah*) as a bilateral public contract binding the leader and the community upon valid qualifying conditions, and al-Mawardi explicitly discusses how the loss or discovery of a defect in essential conditions undermines the continuity of the mandate.[47] While the prophetic maxim *"al-muslimuna 'ala syuruthihim"* (Muslims are bound by their stipulated conditions, recorded in *Sunan Abi Dawud* no. 3594) originated in transactional contract law, modern *siyasah dusturiyah* extends it by analogy (*qiyas*) to constitutional covenants because both private contracts and public investiture derive their binding force from lawful mutual stipulation (*syarth*) within statutory bounds. Directly relevant to post-inauguration annulment is Article 72 of the *Majallat al-Ahkam al-'Adliyyah*: *"La 'ibrata bi al-dzanni al-bayyini khatha'uhu"* (no legal validity attaches to a presumption whose error is subsequently proven manifestly).[48] When the KPU certified the vice-presidential candidacy and the MPR administered the oath on October 20, 2024, both institutions acted on the administrative presumption (*dzan*) that Equivalency Certificate Number 9149/D.D1/KS/2019 validly attested to secondary school graduation. Once Supreme Court Decision Number 742 K/TUN/2026—functioning analogously to *wilayatul mazalim* (the classical administrative grievance tribunal described by al-Mawardi and Abu Ya'la as empowered to redress unlawful executive decrees regardless of rank)[49]—proved that administrative presumption erroneous and ordered revocation, the contractual premise supporting investiture suffered retroactive qualification collapse (*inhilal al-syarth ba'da al-bai'ah*).

Finally, institutional mapping of *ahlul halli wal 'aqdi* (the deliberative assembly of those who bind and loose the public contract) must remain internally consistent and transparent about its conceptual limits. Partisan elected legislators in a modern multiparty parliament are not self-evidently identical to classical *ahlul halli wal 'aqdi*, who were conceived by al-Mawardi as non-partisan jurists and notables possessing *'adalah*, *'ilm*, and political wisdom.[50] For analytical consistency within Indonesia's constitutional

[47] *Sunan Abi Dawud*, Kitab al-Aqdiyyah, no. 3594 ("*Al-muslimuna 'ala syuruthihim*"); Ottoman Empire, *Majallat al-Ahkam al-'Adliyyah* [Ottoman Civil Code] (Istanbul, 1877), art. 72 ("*La 'ibrata bi al-dzanni al-bayyini khatha'uhu*"—no weight is given to a presumption whose error is manifest) and art. 58 ("*Al-tasharruf 'ala al-ra'iyyah manuthun bi al-maslahah*"); see also al-Mawardi, *Al-Ahkam al-Sulthaniyyah*, 16–20 (on *'aqd al-imamah* and termination upon loss of qualifying conditions).
[48] *Sunan Abi Dawud*, Kitab al-Aqdiyyah, no. 3594; *Majallat al-Ahkam al-'Adliyyah*, arts. 58 and 72; al-Mawardi, *Al-Ahkam al-Sulthaniyyah*, 16–20.
[49] Al-Mawardi, *Al-Ahkam al-Sulthaniyyah*, 83–96; Abu Ya'la, *Al-Ahkam al-Sulthaniyyah*, 73–84; Prayoga, "Politik Hukum dalam Penentuan Batas Usia Capres dan Cawapres," 105–122.
[50] Al-Mawardi, *Al-Ahkam al-Sulthaniyyah*, 6–9, 25–30; Bacik, "Al-Mawardi: Islamic Political Theory."

architecture, this study maps *ahlul halli wal 'aqdi* strictly to the People's Consultative Assembly (MPR RI)—the joint constitutional organ exclusively authorized to inaugurate the President and Vice President (Article 9), decide impeachment removal (Article 7B), and elect a replacement Vice President upon vacancy (Article 8 paragraph (2))—while recognizing the DPR's distinct oversight function as an institutional hisbah (accountability) mechanism. Table 1 synthesizes this balanced doctrinal comparison across positive law and Fiqh Siyasah.

Table 1. Comparative Mapping of Post-Inauguration Qualification Annulment and Resignation in Positive Law and Fiqh Siyasah

Analytical Dimension	Indonesian Positive Constitutional & Administrative Law	Primary Fiqh Siyasah Framework
Statutory Educational Prerequisite	Mandatory baseline under Art. 6(2) UUD NRI 1945 jo. Art. 169(r) and Art. 227(l) Law No. 7/2017 (SMA diploma or equivalent).	Modern statutory operationalization of objective competence (kifayah) and institutional integrity (al-'adalah) grounded in al-Mawardi and Ibn Taymiyyah.
Administrative Defect in Certificate No. 9149/D.D1/KS/2019	MK Decision No. 01/PHPU.PRES-XXIV/2026 (obiter) noted absence of diploma; MA Decision No. 742 K/TUN/2026 annulled the decree for violating formal prudence (asas kecermatan).	Objective procedural defect in state credential verification; separated strictly from unproven personal deceit (al-tadlis).
Effect of Inaugural Oath (Oct. 20, 2024)	Terminates candidate status and electoral dispute jurisdiction (PHPU) before MK, but does not bar PTUN/MA review of underlying ministerial decrees.	Bai'at is a conditional public contract ('aqd mu'allaq bi al-syuruth); investiture does not immunize a foundational eligibility defect.
Annulment & Revocation (Oct. 30–Nov. 12, 2026)	MA adopted MK's finding as notoire feiten (Art. 100(2) UU PTUN) and ordered revocation; Kemendikdasmen revoked the certificate on Nov. 12, 2026.	Analogous to wilayatul mazalim redressing unlawful administrative acts under Majallat Art. 72 (la 'ibrata bi al-dzanni al-bayyini khatha'uhu).
Resignation & Official Acts (Nov. 12, 2026)	Written resignation to MPR triggered vacancy under Art. 8(2), mooting Art. 7A/7B; prior good-faith acts preserved via de facto officer doctrine.	Enacts al-istiqalah (voluntary withdrawal) to avert systemic harm (dar'ul mafasid); prior public acts preserved under al-Juwayni's hifzh al-nizham.

Source: Authors' doctrinal synthesis of MK Decision No. 01/PHPU.PRES-XXIV/2026, MA Decision No. 742 K/TUN/2026, MPR RI release (Nov. 12, 2026), and classical Fiqh Siyasah treatises, 2026.

As Table 1 illustrates, harmonizing Indonesian positive law with classical *Fiqh Siyasah* does not require collapsing institutional boundaries or importing unverified moral accusations. Instead, the table clarifies a precise division of labor: administrative courts (*wilayatul mazalim*) adjudicate the objective legality of ministerial equivalency decrees, while

constitutional succession and accountability remain exclusively within the constitutional channels of Articles 7A, 7B, and 8 paragraph (2) administered by the DPR, Constitutional Court, and MPR.

4. Post-Resignation Constitutional Dynamics: Al-Istiqalah, the De Facto Officer Doctrine, and Comparative Boundaries

The legal and political landscape transformed decisively on Thursday, November 12, 2026—the very day the Ministry of Primary and Secondary Education formally revoked Equivalency Certificate Number 9149/D.D1/KS/2019 pursuant to Supreme Court Decision Number 742 K/TUN/2026.[51] On that day, Vice President Gibran Rakabuming Raka delivered a written resignation letter directly to MPR Chair Ahmad Muzani and the MPR leadership, whereupon the MPR officially announced that the office of Vice President of the Republic of Indonesia was vacant as of November 12, 2026.[52] Coordinating Minister Yusril Ihza Mahendra clarified that under Indonesia's constitutional design, a Vice President's written resignation takes legal effect unilaterally upon submission without requiring formal MPR approval, thereby immediately activating Article 8 paragraph (2) of the 1945 Constitution, under which the MPR must convene within sixty days to elect a replacement Vice President from two candidates nominated by the President.[53] Parliamentary leaders in the DPR likewise welcomed the resignation as a dignified step preserving constitutional certainty and national stability.[54] This supervening event fundamentally reshapes the doctrinal inquiry: the central question is no longer whether or how to remove a sitting officeholder, but rather how constitutional law and *Fiqh Siyasah* evaluate the consequences of resignation—specifically regarding the mooting of Articles 7A and 7B, the ethical function of *al-istiqalah*, and the legal validity of official acts executed during tenure.

First, does voluntary resignation under Article 8 paragraph (2) moot the Article 7A and 7B impeachment pathway, or does it leave the "retroactive qualification collapse" thesis untested? Procedurally, resignation unequivocally moots impeachment: Article 7A

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[51] Hukumonline, "Kemendikdasmen Resmi Cabut Suket Penyetaraan Pendidikan SMA Gibran."
[52] MPR RI, "MPR RI Terima Surat Pengunduran Diri Gibran Rakabuming Raka."
[53] Kemenko Kumham Imipas, "Menko Yusril: Pengunduran Diri Wakil Presiden Gibran Tidak Memerlukan Persetujuan MPR"; Hukumonline, "Putusan MA Final, Yusril Nilai Gibran Berpotensi Tak Punya Pilihan."
[54] House of Representatives of the Republic of Indonesia (DPR RI), "Lebih Elegan Pengunduran Diri Gibran Demi Stabilitas Negara dan Kepastian Hukum" [Gibran's Resignation More Elegant for State Stability and Legal Certainty], November 12, 2026, https://www.dpr.go.id/kegiatan-dpr/berita/Lebih-Elegan-Pengunduran-Diri-Gibran-Demi-Stabilitas-Negara-dan-Kepastian-Hukum-70568; MPR RI, "MPR RI Terima Surat Pengunduran Diri Gibran Rakabuming Raka."

authorizes removal only of a *sitting* President or Vice President, and once the office became vacant on November 12, 2026, no active tenure remained for the DPR to refer to the Constitutional Court under Article 7B. Doctrinally, however, resignation leaves the core constitutional question unresolved at the highest judicial level. Because the Constitutional Court never had occasion to issue a binding Article 7B legal opinion on whether an *ex tunc* administrative annulment of a 2019 equivalency certificate satisfies the "no longer fulfilling the requirements" clause of Article 7A, Indonesia's constitutional jurisprudence lacks an authoritative precedent defining the boundary between *ab initio* candidacy defects and supervening disqualification. Consequently, while resignation resolved the immediate political crisis, it sidestepped formal constitutional adjudication of *inhilal al-syarth ba'da al-bai'ah*, underscoring the urgency of statutory reform.

Second, how does the November 12 resignation interact with *Fiqh Siyasah* weighing of public benefit and harm (*muwazanah al-mashalih wa al-mafasid*) and MPR Decree Number VI/MPR/2001? In Indonesian positive law, neither Article 7A (which governs removal) nor Article 8 paragraph (2) (which governs filling a vacancy) establishes a legally enforceable obligation to resign. Likewise, Chapter II, Section 2 of MPR Decree Number VI/MPR/2001 on the Ethics of National Life—which encourages state officials to resign voluntarily (*siap mundur*) when public trust or legal integrity is compromised—is a non-justiciable ethical instrument carrying no direct legal sanction.[55] Yet within the *Fiqh Siyasah* calculus derived from Articles 28–30 of *Majallat al-Ahkam al-'Adliyyah* (*dar'ul mafasid muqaddamun 'ala jalbil mashalih*—preventing harm takes precedence over securing benefit, and choosing the lesser of two conflicting harms), the November 12 resignation functionally enacted *al-istiqalah* (voluntary relinquishment of office) as the optimal *maslahah* outcome.[56] By stepping down immediately upon ministerial revocation of the certificate, the officeholder spared the republic from a protracted, polarizing supermajority impeachment battle while simultaneously respecting the finality of Supreme Court Decision Number 742 K/TUN/2026 and allowing orderly succession under Article 8 paragraph (2) without any executive vacuum, as the President continued exercising full governmental authority. At the same time, legal scholars note that *al-*

[55] Republic of Indonesia, People's Consultative Assembly Decree Number VI/MPR/2001 on the Ethics of National Life (*Ketetapan MPR Nomor VI/MPR/2001 tentang Etika Kehidupan Berbangsa*), chap. II, sec. 2; *Majallat al-Ahkam al-'Adliyyah*, arts. 28–30 (on weighing conflicting harms, *dar'ul mafasid*).
[56] Republic of Indonesia, People's Consultative Assembly Decree Number VI/MPR/2001, chap. II, sec. 2; *Majallat al-Ahkam al-'Adliyyah*, arts. 28–30.

istiqalah vindicates the *preventive* aim of *maslahah* (averting institutional paralysis) while leaving open secondary questions regarding administrative accountability of the officials who issued the defective 2019 certificate.

Third—and most critically for the *ex tunc* logic of administrative annulment—what is the legal status of official acts, policy directives, state representations, and administrative decisions executed by the Vice President between his inauguration on October 20, 2024, and his resignation on November 12, 2026? If the *ex tunc* invalidation of Equivalency Certificate Number 9149/D.D1/KS/2019 were extended blindly to nullify every official act performed during those twenty-four months, the result would be catastrophic legal uncertainty affecting state governance and innocent third parties. Comparative public law resolves this precise dilemma through the de facto officer doctrine. As articulated in the foundational United States Supreme Court decision Norton v. Shelby County (118 U.S. 425, 1886) and analyzed in contemporary public law scholarship by Samuel L. Bray in the Journal of Legal Analysis (2025), an officer who holds and exercises the duties of an existing public office under color of a known election or appointment—even if his title is subsequently found defective—is recognized as an officer de facto whose official acts remain legally valid and binding insofar as they involve the interests of the public and third persons.[57] Bray emphasizes that a coherent remedial framework for defective officeholding must ensure clarity over who exercises authority, minimize disruptive institutional flips, and guarantee that the legal effect of prior official acts remains stable once title is resolved.[58]

Remarkably, classical *Fiqh Siyasah* arrives at a parallel doctrinal safeguard. In *Ghiyath al-Umam*, Imam al-Haramayn al-Juwayni—echoed by Ibn Taymiyyah in *Al-Siyasah al-Syar'iyyah*—addresses the legal validity of administrative decrees, public contracts, and judicial appointments executed under a ruler whose investiture later proves defective or lacks full *syurut al-imamah*.[59] Applying the principle of preserving public order and preventing systemic ruin (*hifzh al-nizham* and *dar'ul mafasid*), classical jurists upheld the validity of lawful, good-faith public acts executed during the tenure of a *de facto* authority so that citizens' rights, contracts, and administrative stability would not

[57] *Norton v. Shelby County*, 118 U.S. 425, 441–446 (1886); Bray, "Remedies in the Officer Removal Cases," 241–250.
[58] *Norton v. Shelby County*, 118 U.S. at 441–446; Bray, "Remedies in the Officer Removal Cases," 241–250.
[59] Al-Juwayni, *Ghiyath al-Umam*, 294–312 (on preserving public order and the validity of administrative and judicial acts executed under a defectively invested authority to avert systemic disruption); Ibn Taymiyyah, *Al-Siyasah al-Syar'iyyah*, 161–168.

collapse retroactively. Synthesizing the common-law *de facto* officer doctrine with al-Juwayni's jurisprudence establishes a vital doctrinal boundary for Indonesia's 2026 precedent: *inhilal al-syarth ba'da al-bai'ah* (retroactive qualification collapse) terminates *prospective* constitutional legitimacy to retain office, but it does not retroactively invalidate lawful state acts performed in good faith under color of the October 20, 2024 inauguration prior to the November 12, 2026 resignation.

Placing Indonesia's experience in bounded comparative perspective further clarifies both its broader relevance and its institutional limits—without overclaiming universal global applicability. Two verified comparative benchmarks illustrate divergent constitutional designs for handling post-election eligibility defects. First, in Australia, Section 44 of the Australian Constitution disqualifies parliamentarians who hold disqualifying statuses such as dual citizenship; in *Re Canavan* [2017] HCA 45, the High Court of Australia, sitting as the Court of Disputed Returns, ruled that eligibility defects operate strictly from nomination and invalidate election *ab initio* even after swearing-in.[60] Crucially, however, two analogical boundaries apply: Section 44 governs parliamentary citizenship and office-of-profit disqualifications rather than vice-presidential educational credentials, and Australia possesses a dedicated post-election judicial forum (the Court of Disputed Returns) to adjudicate referrals—demonstrating that comparative constitutional systems do not universally treat swearing-in as an absolute procedural bar, even though Indonesia lacks an equivalent post-inauguration electoral tribunal. Second, in the United States, *Trump v. Anderson* (601 U.S. 100, 2024)—examined in the 2025 *Supreme Court Review*—illustrates the acute institutional tension over *which* branch holds enforcement authority over constitutional disqualification provisions for national executive office, highlighting how courts frequently defer national executive enforcement to legislative or federal mechanisms to avoid fragmented state-level challenges.[61] These comparative cases reinforce external validity with clear boundary conditions: across constitutional democracies, post-election qualification defects generate tension between judicial enforcement and political finality, yet the remedial outcome depends strictly on

[60] High Court of Australia, *Re Canavan* [2017] HCA 45, (2017) 263 CLR 284 (interpreting Section 44 of the Australian Constitution through the Court of Disputed Returns); United States Supreme Court, *Trump v. Anderson*, 601 U.S. 100 (2024), analyzed in Michael W. McConnell, "The Trump Disqualification Case: The Halley's Comet of Constitutional Law," *The Supreme Court Review* 2024 (2025), https://doi.org/10.1086/735481.
[61] *Re Canavan* [2017] HCA 45; *Trump v. Anderson*, 601 U.S. 100 (2024); McConnell, "The Trump Disqualification Case."

each constitution's allocation of forum jurisdiction and *de facto* act protection. Table 2 evaluates the post-annulment constitutional pathways and their exact normative status across positive law and *Fiqh Siyasah*.

Table 2. Evaluation of Post-Annulment Institutional Pathways: Positive-Law Status versus Fiqh Siyasah Normative Classification

Institutional Pathway	Positive Constitutional & Administrative Law Status	Fiqh Siyasah & Maslahah Classification (Criteria)
1. Ministerial Revocation of Certificate No. 9149/D.D1/KS/2019 (Executed Nov. 12, 2026)	Legally Mandatory: Binding execution of the final operative order of MA Decision No. 742 K/TUN/2026 under Law No. 30/2014 and UU PTUN.	Obligatory Administrative Compliance (*Tanfidz Hukm al-Qadha'*): Upholds judicial supremacy and formal administrative legality.
2. Voluntary Resignation & Art. 8(2) Succession (Executed Nov. 12, 2026)	Legally Permissible & Self-Executing: Unilateral resignation creates vacancy under Art. 8(2) without requiring MPR approval; ethically encouraged (non-binding) by TAP MPR No. VI/MPR/2001.	Optimal Maslahah (Al-Istiqalah): Minimizes political polarization while respecting judicial finality; preserves prior acts via de facto safeguard.
3. Parliamentary Impeachment via Art. 7A & Art. 7B (Mooted Nov. 12, 2026)	Discretionary Political Prerogative: DPR hak menyatakan pendapat requires 2/3 supermajority, 90-day MK legal opinion, and MPR 3/4 quorum + 2/3 vote; not a justiciable legal duty.	Collective Oversight Mechanism (*Hisbah / Ahlul Halli wal 'Aqdi* via MPR): Available corrective channel if tenure continues, but carries high institutional friction.
4. Institutional Inaction / Preserving Status Quo Post-Revocation	Structurally Unstable: Leaves a sitting official without a legally valid statutory credential under Art. 169(r) Election Law and widens the execution gap.	Rejected (*Maslahah Mulghah* / Greater Harm): Erodes public trust in judicial authority and equality before the law without preventing succession uncertainty.

Source: Authors' normative evaluation based on UUD NRI 1945, Law No. 30/2014, TAP MPR No. VI/MPR/2001, Bray (2025), and classical Fiqh Siyasah sources, 2026.

Table 2 carefully distinguishes binding positive-law duties from discretionary political powers and non-binding ethical norms—avoiding any conflation of *Fiqh Siyasah* juristic categories with enforceable statutory obligations. Reading the four pathways together confirms why the actual sequence of events on November 12, 2026—mandatory ministerial revocation of the equivalency certificate followed by voluntary resignation (*al-istiqalah*) and preservation of prior official acts via the *de facto* officer doctrine—produced the least disruptive constitutional resolution while leaving structural legislative gaps that require proactive reform.

5. Theoretical Contributions, Policy Implications, Limitations, and Future Research

This study makes three distinct theoretical contributions to Indonesian constitutional law and contemporary *Fiqh Siyasah*. First, it formulates the paired doctrinal construct of *retroactive qualification collapse* (*inhilal al-syarth ba'da al-bai'ah*) tempered by the *de facto officer validity safeguard*, demonstrating how administrative invalidation of a candidacy prerequisite terminates prospective legitimacy without triggering retroactive legal chaos for good-faith state acts. Second, in direct dialogue with existing literature, this study *extends* the substantive-justice arguments of Saputra et al. and Nurhayati and Saputri beyond electoral dispute windows into inter-court administrative-constitutional interaction;[62] *refines* the *siyasah qadha'iyyah* disqualification model of Marina, Maimun, and Amrullah from pre-inauguration regional elections to post-inauguration national executive tenure;[63] and *qualifies* the formalist finality thesis of Chofifi and Kusdarini by showing how administrative courts and voluntary resignation can alter constitutional tenure even when the Constitutional Court declines PHPU jurisdiction.[64] Third, it models a methodologically disciplined *Fiqh Siyasah* approach grounded directly in primary classical treatises (al-Mawardi, Abu Ya'la, al-Juwayni, Ibn Taymiyyah, and Ibn Khaldun) that acknowledges structural discontinuities between classical caliphal offices and modern presidential republics rather than asserting uncritical analogies.

Beyond theory, the 2026 crisis yields concrete policy implications for Indonesia's legislature, judiciary, and executive administration. For the legislature (the DPR and the Government)—whose oversight challenges under oversized coalitions are well documented by Sihotang et al., Kusuma et al., Said and Ahmad, Sunarto and Lestari, and

[62]Saputra et al., "Substantive Justice in Resolving Election Result Disputes," 766–790; Nurhayati and Saputri, "Conditional Finality and Constitutional Rehearing," 205–236.
[63] Marina, Maimun, and Amrullah D., "Analisis Siyasah Qadha'iyyah terhadap Kewenangan Mahkamah Konstitusi," 192–210; Ramadhan, Saebani, and Sutiana, "Tinjauan Siyasah Dusturiyah terhadap Putusan MK Nomor 60/PUU-XXII/2024," 46–59.
[64] Chofifi and Kusdarini, "Perkembangan Putusan Mahkamah Konstitusi," 381–404; Suryanata and Mubarrak, "Analisis Putusan Mahkamah Konstitusi Nomor 1/PHPU.PRES-XXII/2024," 12173–12183.

Wijaya[65,66]—three statutory amendments to Law Number 7 of 2017 on General Elections are urgent: (1) mandating rigorous, transparent, pre-registration verification and public disclosure of foreign educational equivalencies prior to candidate certification; (2) clarifying statutory legal standing in presidential PHPU disputes so civic oversight mechanisms are clearly delineated without inviting frivolous post-election suits; and (3) considering a narrowly tailored, time-limited post-inauguration eligibility review mechanism specifying how final administrative court rulings interface with Article 7A and Article 8 paragraph (2). For the judiciary (the Supreme Court and the Constitutional Court), joint doctrinal clarification—via Supreme Court Circular Letters (SEMA) or harmonized jurisprudence—is needed to define: (1) the exact evidentiary threshold for treating *obiter dicta* from an inadmissible constitutional ruling as *notoire feiten* under Article 100 paragraph (2) of the PTUN Law; (2) mandatory third-party notification or joinder rules when an administrative lawsuit threatens a sitting public official's foundational credential; and (3) predictable boundaries for overriding the ninety-day time bar under Article 55 of the PTUN Law. For the executive (the Ministry of Primary and Secondary Education and the KPU), administrative equivalency issuance under Law Number 30 of 2014 must strictly enforce *asas kecermatan* by prohibiting equivalency certification in the absence of a verified graduation diploma.

Finally, this study acknowledges three clear limitations that define avenues for future research. First, because this analysis is anchored as of November 22, 2026—just twelve days after the release of the full Supreme Court decision text and ten days after the Vice President's resignation—the MPR's sixty-day constitutional process to elect a replacement Vice President under Article 8 paragraph (2) remains ongoing, and

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[65] Januari Sihotang, Berlian, and Permai Yudi, "Penataan Pengawasan DPR terhadap Presiden dalam Rangka Penguatan Sistem Presidensial Indonesia" [Restructuring DPR Oversight of the President to Strengthen Indonesia's Presidential System], *Fundamental: Jurnal Ilmiah Hukum* 13, no. 1 (2024): 124–144, https://doi.org/10.34304/jf.v13i1.241; Satria Budi Kusuma et al., "Hubungan Fungsional antara Dewan Perwakilan Rakyat (DPR) dan Presiden dalam Bidang Pengawasan di Indonesia Menurut UUD 1945" [Functional Relations Between the DPR and the President in Oversight Under the 1945 Constitution], *Jurnal Diskresi* 3, no. 1 (2024): 93–103, https://doi.org/10.29303/diskresi.v3i1.5085; Abd. Razak Said and Suparji Ahmad, "Hak Angket dalam Penguatan Fungsi Pengawasan Dewan Perwakilan Rakyat Republik Indonesia" [The Right of Inquiry in Strengthening the Oversight Function of the Indonesian House of Representatives], *Binamulia Hukum* 13, no. 2 (2024): 361–376, https://doi.org/10.37893/jbh.v13i2.950.

[66] unarto and Eta Yuni Lestari, "Presidential Threshold dalam Sistem Presidensiil dan Implikasinya terhadap Fungsi Pengawasan DPR" [Presidential Threshold in the Presidential System and Its Implications for DPR Oversight], *Integralistik* 37, no. 1 (2026): 93–103, https://doi.org/10.15294/integralistik.v37i1.36177; Muhamad Arya Wijaya, "Fungsi Konstitusional DPR dalam Perspektif Hak Rakyat: Antara Representasi dan Resistensi" [Constitutional Function of the DPR from the Perspective of People's Rights], *Evidence of Law* 4, no. 2 (2025): 941–951, https://doi.org/10.59066/jel.v4i2.1568.

subsequent institutional practices may further shape Indonesia's constitutional conventions. Second, as a purely doctrinal legal study, this research does not conduct empirical surveys of public legitimacy, parliamentary voting behavior, or potential criminal or administrative disciplinary proceedings against ministerial officials involved in issuing the 2019 certificate. Third, its comparative analysis is deliberately bounded to two common-law benchmarks (Australia and the United States) to respect analogical precision. Future research should therefore empirically track the MPR's 2026–2027 vice-presidential succession proceedings, examine comparative post-inauguration qualification disputes across presidential democracies in Southeast Asia and Latin America, and develop a comprehensive statutory codification of the *de facto* officer doctrine within Indonesian administrative law.

C. CONCLUSION

Constitutional Court Decision Number 01/PHPU.PRES-XXIV/2026 and Supreme Court Cassation Decision Number 742 K/TUN/2026 demonstrate that while the inaugural oath (*bai'at*) closes electoral dispute channels, it operates as a conditional public covenant that cannot cure an underlying administrative decree annulled for lacking a verified graduation diploma. Although the Supreme Court's reliance on *obiter dicta* as *notoire feiten* and its circumvention of administrative time-bar and non-party limits expose unresolved tensions with electoral finality and the textual scope of Article 7A, the Ministry's revocation of Certificate Number 9149/D.D1/KS/2019 and the Vice President's voluntary resignation on November 12, 2026 enacted *al-istiqalah* and mooted discretionary impeachment under Article 7B. Drawing on the comparative *de facto* officer doctrine and classical *Fiqh Siyasah* jurisprudence from al-Mawardi and al-Juwayni, retroactive qualification collapse (*inhilal al-syarth ba'da al-bai'ah*) terminates prospective tenure without invalidating lawful, good-faith official acts performed during office. To prevent recurring constitutional ambiguity, Indonesia's legislature and apex courts must reform pre-registration credential verification, clarify post-inauguration inter-court evidentiary standards, and formalize *de facto* act protections within positive public law.

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