



Legal Politics in the Perspective of the Constitutional Court's Decision on Presidential and Vice Presidential Candidates

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ABSTRACT

The Constitutional Court Decision Number 90/PUU-XXI/2023 regarding the age requirements for presidential and vice presidential candidates is an important event in the context of political law in Indonesia. This event gave rise to various legal and political responses and consequences in this country. The article aims to explain the journey and dynamics of the Constitutional Court's decision along with the legal consequences and political impacts that result. The research method is normative juridical research and literature study. Data collection was carried out through library research and study of relevant legal sources. Data were analyzed qualitatively based on relevant legal and library sources. The research results show that the legal and political dynamics that occur in relation to the Constitutional Court's decision regarding the age requirements for presidential and vice presidential candidates are part of a close legal and political relationship. The legal consequence that occurs is that everyone must implement the decision because the Constitutional Court's decision is final and binding and the technical regulations need to be prepared. The resulting political impact was a significant change in the political map. Key words: Constitutional Court, Political law, Presidential election.

INTRODUCTION

Indonesia will soon hold a democratic celebration with the general elections and the presidential and vice-presidential elections on February 14, 2024. However, the electoral process and presidential election stages officially began on June 14, 2022, starting with planning, programming, implementation, and the drafting of electoral regulations. One of the crucial steps in this process was the voter data updating phase, which took place from October 14, 2022, to June 14, 2023. This process will continue until the elections are conducted, and the results are announced in June 2024.

The presidential and vice-presidential elections naturally attract significant attention from the Indonesian people, as they determine the future head of state. As a result, long before the official stages of the presidential election were established, political activities and maneuvers concerning potential candidates had already been lively since early 2022. Leading up to the registration period for presidential and vice-presidential candidates from October 19 to October 25, 2023, a significant event involving the Constitutional Court (Mahkamah Konstitusi, MK) took place. The court ruled that individuals under 40 years old could run for president or vice president, provided they had previously or were currently holding an elected office, including regional leadership positions.

Voter participation in presidential elections in Indonesia tends to be higher than in legislative elections. This is because voters are choosing an individual who may resonate with them personally, either in terms of personality or capability. Voters who are not affiliated with any political party often find presidential elections more appealing than legislative elections. Additionally, presidential campaigns tend to be more festive. For many Indonesians, the presidential election is a highly anticipated democratic event, whether because they seek policy changes or for more personal reasons. Furthermore, in 2024, a significant portion of the electorate consists of millennials, who are highly enthusiastic, as seen from their active engagement on social media.

LITRATURE REVIEW

The Constitutional Court's ruling was issued under Decision Number 90/PUU-XXI/2023, which sparked widespread controversy. Many linked the ruling to the candidacy of Gibran Rakabuming Raka, the son of President Joko Widodo, as the vice-presidential candidate alongside Prabowo Subianto, the presidential candidate from the Gerindra Party and its coalition. The controversy grew even more intense because the Chief Justice of the Constitutional Court at the time, Anwar Usman, was Gibran's uncle. Various legal and political analyses regarding this issue emerged from legal experts and politicians representing different interest groups.

From a legal-political perspective, this event is significant in understanding the relationship between law and the political system within a society or state. It can also be seen as a method of shaping legal policy to achieve the social and legal objectives desired by the public, which are established through the authority of state institutions.

The scope of legal politics studies revolves around how legal values are explored to produce legal policies that align with societal needs and a sense of justice. In this case, the debate over the age requirement for presidential and vice-presidential candidates was examined through various legal sources. While some believed the minimum age requirement of 40 years was appropriate, others who submitted the judicial review argued that this age limit was unfairly restrictive and deprived capable individuals of their rights. They also pointed out that other political offices, such as regional heads (governors, mayors, and regents), did not have the same age restriction.

The Constitutional Court's ruling represents an essential process in legal value exploration, demonstrating the close interaction between law and politics. However, this ruling also sparked conflicts of interest, particularly in practical political matters. This is understandable, as the law being reviewed was directly related to the 2024 presidential and vice-presidential elections, which were a major focus for political parties. The court's decision significantly reshaped Indonesia's political landscape, affecting both coalition alignments and political competition.

This event is an important case study in Indonesia's legal-political landscape, highlighting the complex interplay between power, high-ranking institutions, and political dynamics. The controversy surrounding the decision provoked various responses from different actors, resulting in both support and opposition. The debate culminated in a ruling by the Constitutional Court's Honorary Council, which found Anwar Usman guilty of ethical violations and removed him from his position as Chief Justice.

Nevertheless, the controversy surrounding the ruling continues. In legal terms, this issue remains a subject of debate among constitutional law experts in Indonesia, while politically, it has reshaped the national political map. This paper aims to analyze the Constitutional Court's ruling on presidential and vice-presidential candidacy from the perspective of legal politics. The key questions explored in this study are: How did the Constitutional Court's decision-making process and dynamics unfold? What are the legal consequences of this ruling? And how has this ruling influenced political changes in Indonesia?

METHODOLOGY

This paper employs a normative juridical method as an approach, with primary, secondary, and tertiary legal sources. Data collection is carried out through library research conducted online. The approach used is qualitative research, with data analysis performed qualitatively based on the alignment of facts with existing norms, supported by relevant references.

RESEARCH RESULT AND DISCUSSION

The Constitutional Court's decision regarding the age requirement for presidential and vice-presidential candidates created a stir in both the legal and political fields, especially as the registration for presidential and vice-presidential candidates began on October 19, 2023. This event became a political-legal

occurrence, reflecting the intertwined relationship between politics and law, which influence each other.

In this section, the discussion emphasizes that, from a political-legal perspective, the Constitutional Court's decision in Case No. 90/PUU-XXI/2023 is within the scope of constitutional law studies. This is due to the fact that the Constitutional Court is a state institution with significant authority in a constitutional state like Indonesia, particularly in the following areas: 1) Reviewing the constitutionality of laws; 2) Deciding constitutional jurisdiction disputes between state institutions; 3) Deciding disputes over the results of elections; 4) Deciding on the dissolution of political parties, and one obligation, which is to decide on the People's Representative Council's opinion regarding the allegation of the President or Vice President violating the law, as outlined in the 1945 Constitution. The Constitutional Court's authority is vast, and its neutrality should be upheld, as it is an institution that cannot be intervened with by anyone.

Furthermore, the role of the Constitutional Court, as outlined in the Third Amendment of the 1945 Constitution, includes: 1) Acting as the guardian of the constitution; 2) Being the sole interpreter of the constitution; 3) Protecting democracy; 4) Protecting the constitutional rights of citizens and human rights. This function highlights the importance of the Constitutional Court's existence in maintaining the balance of law and democracy in a country.

This paper will focus on answering key questions regarding the process and dynamics of the Constitutional Court's decision related to the age requirements for presidential and vice-presidential candidacies, leading up to the Constitutional Court's ruling. Decision No. 90/PUU-XXI/2023 has legal consequences and significant political impact, which will be further discussed in terms of its legal and political repercussions.

1. Process and Dynamics of the Constitutional Court's Decision on Presidential and Vice-Presidential Candidacy

The process of this Constitutional Court decision began with a petition to test the 2017 Election Law (Law No. 7 of 2017) against the 1945 Constitution, filed by Almas Tsaqibbirru Re A (a student), with authorization given to several legal advisors.

The petition was initially withdrawn but was later re-submitted with certain modifications. The revised petition focused on the minimum age requirement of 40 years or experience as a regional head. The petition argued that if this requirement was not changed, it would conflict with the 1945 Constitution and lack binding legal force unless it is interpreted as "at least 40 years old or experienced as a regional head." The earlier petition simply advocated for a minimum age of 35, without mentioning the requirement for experience as a regional head.

The Constitutional Court then conducted a judicial review to determine whether this provision violated the 1945 Constitution. Based on legal studies and expert opinions, the Court issued its ruling: 1) Partially granting the petitioner's request; 2) Stating that Article 169 letter q of Law No. 7 of 2017, which requires a minimum age of 40, contradicts the 1945 Constitution and lacks binding legal

force unless interpreted as “at least 40 years old or having held a position elected through direct elections, including as a regional head”; 3) Ordering the publication of this decision in the State Gazette of the Republic of Indonesia.

The decision was not unanimous, with two Constitutional Court judges expressing concurring opinions, and four judges issuing dissenting opinions. This reveals a prolonged and intense debate within the Court, but the majority of judges (5 out of 9) ultimately agreed on the ruling.

Some of the objections to the decision included concerns about the legal standing of the petitioner, the re-submission of a withdrawn petition, and arguments that such issues should be decided by the legislature, not the Constitutional Court. On the other hand, those in favor of the decision argued that it granted political rights to younger generations with election experience and aligned with the age requirements for other political offices.

Nevertheless, the ruling is final and binding and must be implemented. The debate and controversy surrounding the decision continue at both legal and political levels, but it is hoped that everything proceeds in a way that respects the law.

2. Legal Consequences of the Constitutional Court’s Decision No. 90/PUU-XXI/2023

When the Constitutional Court, as the highest legal institution, issues a decision on a constitutional matter, the ruling is final and binding. This is stipulated in Article 24C of the 1945 Constitution, which states: “The Constitutional Court has the authority to adjudicate at the first and final levels, with its decisions being final, to test laws against the Constitution, resolve disputes over the authority of state institutions granted by the Constitution, decide on political party dissolutions, and resolve disputes regarding election results.”

This is reinforced by Article 10(1)(a) of Law No. 24 of 2003 on the Constitutional Court, as amended by Law No. 8 of 2011 and Law No. 7 of 2020. It states: “The Constitutional Court has the authority to adjudicate at the first and final levels, with its decisions being final, to test laws against the 1945 Constitution.”

As a result, all parties must comply with the decision, and the article in question becomes a new norm that overrides the previous one. This means the General Elections Commission (KPU) must implement the decision. The provisions in Article 169 letter q of the 2017 Election Law, as stipulated in the Constitutional Court’s decision, will apply starting with the 2024 Presidential Election and beyond, unless it is re-challenged.

The revised Article 169 letter q of Law No. 7 of 2017 states: “A candidate must be at least 40 years old or have previously held a position elected through direct elections, including as a regional head.” This means that individuals who are at least 40 years old or who have served or are serving as a regional head or have been elected through a public election are eligible to run for president or vice president.

This decision has changed the previous norm, making it applicable to all candidates. It opens the door for younger individuals currently serving as regional heads to run for president or vice president, should they receive support. This applies not just to Gibran but more broadly.

There are approximately 25 individuals under the age of 40 currently holding political office who may now run for president or vice president. The KPU has responded to the decision by informing the legislature and the government, indicating plans to revise regulations and adjust them according to the Constitutional Court's ruling.

Legal experts have expressed diverse opinions about the ruling. Some have raised concerns about the Court's independence and its potential political influence. Others, however, support the decision as an important step in empowering younger generations with political experience to participate in presidential and vice-presidential elections.

The Ideal Follow-up to the Constitutional Court's Decision

The Constitutional Court's decision should ideally be immediately followed up with more operational regulations, especially those related to operations. This is done to provide certainty in the technical implementation of election registration, particularly concerning age requirements. Delays in adjusting these operational regulations could disrupt the election stages. Therefore, the General Election Commission (KPU), as a key institution in the general election, must follow up without delay. If not, it will hinder constitutional events in Indonesia.

The follow-up to Constitutional Court Decision Number 90/PUU-XXI/2023 should be drafted or positioned separately from the controversies it has raised to avoid disrupting the election stages and should be institutionalized constructively. Therefore, socialization regarding the implementation of the new norms outlined in Constitutional Court Decision Number 90/PUU-XXI/2023 is necessary.

Finally, whatever the Constitutional Court's decision may be, it is final and binding, so it must be implemented by all related parties. The issue of pro and con is part of democracy itself, even though it is regrettable to many due to the various anomalies that can be felt. The 2024 elections must proceed according to the election stages and hopefully will be carried out well, not only as procedural democracy but also as substantial democracy.

1. Political Impact of Constitutional Court Decision Number 90/PUU-XXI/2023

The Constitutional Court's decision falls under the realm of political law, both institutionally and substantively. In addition to legal consequences, this decision has political impacts in Indonesia, both in practical politics and in substantive or ethical politics (high politics). The decision led to political turmoil, as political upheavals altered the direction of party coalitions and left supporters confused about whether to base their choices on parties or individuals.

Before the Constitutional Court's decision or in early 2023, the political figures running for president and vice president were still dominated by emerging figures such as Muhaimin Iskandar, Anies Baswedan, Ganjar Pranowo,

and Puan Maharani. Muhaimin Iskandar was portrayed as a suitable presidential candidate who encouraged people to support PKB and the NU community. Anies Baswedan was seen as a figure who brought concrete change and sincerity. Meanwhile, Ganjar's figure received a suspended Twitter account status. Puan was portrayed as a populist figure. There was a persuasive narrative to succeed in the 2024 Presidential Election as a democratic practice in line with the spirit of the 1998 Reform Movement.

In practical politics, after the Constitutional Court's decision, Gibran became the vice-presidential candidate for Prabowo Subianto, who is part of the Coalition for a Progressive Indonesia (Koalisi Indonesia Maju/KIM), consisting of 10 political parties: Gerindra, PAN, Demokrat, and Golkar from parliament, as well as non-parliamentary parties like Gelora Indonesia, PBB, Garuda Party, PSI, the Aceh Party, and PRIMA (a non-participant in the 2024 election). KIM is a large coalition with diverse political forces.

Following the Constitutional Court's decision and the announcement of Prabowo-Gibran, the Indonesian Democratic Party of Struggle (PDI-P) and its coalition announced Ganjar Pranowo with Mahfud MD as vice-presidential candidate. PDI-P is in coalition with PPP, Perindo Party, and Hanura Party in supporting Ganjar and Mahfud. Additionally, another pair, Anies Baswedan and Muhaimin Iskandar, was announced earlier, supported by the coalition of Nasdem, PKS, and PKB. This political map is a direct result of the Constitutional Court's decision.

Politically, this situation was followed by surveys of the electoral strength of each pair. In a survey conducted in November 2023 by LSI Denny JA and Indonesian Political Opinion (IPO), it was recorded that the electability of the three presidential-vice presidential pairs was as follows: Prabowo Subianto-Gibran Rakabuming Raka at 40.3%, followed by Ganjar-Mahfud at 28.6%, and the AMIN pair at 20.3%. Those who had not responded or were undecided accounted for 10.8%.

Another political effect was the breakup of political relations between President Joko Widodo and PDI-P, which supported him in the 2019 presidential election. PDI-P viewed President Joko Widodo as a traitor, influencing the Constitutional Court and building a dynastic politics that undermined democracy, among other criticisms. PDI-P was disappointed with Joko Widodo's decision to allow his son to run as a rival to Ganjar Pranowo in the 2024 presidential election.

As the sitting president, there is concern among the other candidates (besides Prabowo-Gibran) that the president might use his power to help certain pairs. This concern is shared by the Ganjar-Mahfud and Anies-Muhaimin pairs.

Currently, the political dynamics are heating up, with opinion battles and electoral battles on display. There is frequent heated debate and mutual jabs between the pairs and the political figures behind the presidential and vice-presidential candidates, both on public platforms and in limited forums and social media. This shows that the political situation in Indonesia is currently unstable, with any issue easily politicized.

Viewed from the ethical politics or high politics perspective, which focuses on noble moral goals in alignment with human dignity and worth, the Constitutional Court's decision is seen as undermining these noble political goals. Although rationally acceptable, it is filled with both substantive and technical controversies. The decision regarding the age requirements for presidential and vice-presidential candidates is seen as undermining the noble moral goals of politics.

Ultimately, elections are democratic events held fairly, justly, and with dignity. The democracy that develops is inseparable from political participation, which places each individual within the state as having the right to elect representatives in both the legislative and executive branches. The involvement of citizens in politics is a key measure of the maturity of democracy in a society. Through political participation, citizens can ensure that their interests and desires are represented by the officials in government and the president and vice president. Through fair elections, democracy will flourish when the public is involved in determining public policy. Conversely, if involvement is low, democracy will stagnate.

The Constitutional Court's decision on age requirements for presidential and vice-presidential candidates has sparked both support and opposition from the public. However, the political process must continue to be carried out by all involved parties. As a middle ground, the parties on both sides of the debate should exercise caution to avoid violating other rules. Additionally, the substance of the decision should be separated from the existing controversies. The Constitutional Court's decision should be viewed as an ordinary event if it were not made just before the 2024 elections, as it opens up the opportunity for Indonesian citizens to participate in the election as candidates.

CONCLUSION

This writing is a political legal analysis regarding the Constitutional Court's decision number 90/PUU-XXI/2023 concerning the age requirements for presidential and vice-presidential candidates. The Constitutional Court's decision revised the norm from a minimum age of 40 years to "at least 40 years old or having experience as a regional leader." This is an important event in the study and scope of political legal science as it shows the close relationship between political processes and the law, involving state institutions, particularly the Constitutional Court.

This decision has legal consequences, as the Constitutional Court's decisions must be followed by all related parties because the ruling is final and binding. This is part of the Constitutional Court's authority and function as the final constitutional adjudicator. Another legal consequence is the need to regulate or adjust operational regulations so that the norms in the Constitutional Court's decision can be implemented at the technical level and not disrupt the stages of the election process.

The political impact of this Constitutional Court decision has two aspects: practical politics and ethical politics (high politics). In practical politics, this situation creates a political shock and alters the coalition map concerning the three presidential candidates for the 2024 election. Another consequence is the

accusation of government intervention in the Constitutional Court and the development of a political dynasty by President Joko Widodo's family. From an ethical political perspective, although the Constitutional Court's decision can be rationally accepted, it cannot be ethically or morally accepted due to the many irregularities in the process.

In the end, the Constitutional Court's decision has been made and established, so all parties must respect and implement it. It is hoped that the pro and contra situations will not lead to other violations. It is also necessary to separate the substance of the issue from the controversy to ensure that the democratic process can proceed according to its stages. The political process must continue to prioritize high-level politics that uphold morality for the goal of a better life.

ADVANCED RESEARCH

In writing this article the researcher realizes that there are still many shortcomings in terms of language, writing, and form of presentation considering the limited knowledge and abilities of the researchers themselves. Therefore, for the perfection of the article, the researcher expects constructive criticism and suggestions from various parties.

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