

The Dynamics of the Constitutional Court's Authority in Determining Age Limit Requirements for Political Leadership Candidates

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Abstrak

The Constitutional Court of Indonesia plays a central role in the national constitutional system through its authority to review statutory laws against the 1945 Constitution of the Republic of Indonesia, and one of the most debated constitutional issues in recent years concerns the Court's authority to interpret and determine age limit requirements for political leadership candidates, particularly presidential and regional head candidates. Although such age requirements were originally regulated explicitly by statutory provisions, Constitutional Court decisions have significantly altered these norms, generating legal and political controversy and affecting the structure of Indonesia's electoral system. This study aims to analyze the dynamics of the Constitutional Court's authority in adjudicating cases related to age limit requirements for political leadership candidates and to examine the constitutional and democratic implications of these decisions. Employing a normative legal research method with a statute approach and a case approach focusing primarily on Constitutional Court Decision No. 90/PUU-XXI/2023—this study relies on primary legal materials such as the 1945 Constitution, election and regional governance statutes, and Constitutional Court rulings, as well as secondary materials from academic journals, books, and recent scholarly literature. The findings indicate that the Constitutional Court, in this decision, has gone beyond its traditional role as a negative legislator and has assumed characteristics of a positive legislator by effectively creating new legal norms through progressive constitutional interpretation, thereby raising concerns regarding the limits of judicial authority, the potential shift of legislative functions from the legislature to the judiciary, and the need to reinforce institutional checks and balances to maintain legal certainty and democratic legitimacy within Indonesia's constitutional and electoral system.

Keywords: Constitutional Court; Constitutional Court Authority; Presidential Candidate; Regional Head Candidate.

Abstrak

Mahkamah Konstitusi Indonesia memainkan peran sentral dalam sistem tata negara melalui wewenangnya untuk meninjau undang-undang yang bertentangan dengan UUD Republik Indonesia 1945, dan salah satu masalah konstitusional yang paling banyak diperdebatkan dalam beberapa tahun terakhir menyangkut kewenangan Mahkamah untuk menafsirkan dan menentukan persyaratan batas usia bagi calon kepemimpinan politik, terutama calon presiden dan kepala daerah. Meskipun persyaratan usia tersebut awalnya diatur secara eksplisit oleh ketentuan perundang-undangan, keputusan Mahkamah Konstitusi telah mengubah norma-norma ini secara signifikan, menimbulkan kontroversi hukum dan politik dan mempengaruhi struktur sistem pemilu Indonesia. Penelitian ini bertujuan untuk menganalisis dinamika kewenangan MK dalam mengadili kasus-kasus terkait persyaratan batas usia bagi calon pemimpin politik dan untuk mengkaji implikasi konstitusional dan demokrasi dari putusan tersebut. Menggunakan metode



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penelitian hukum normatif dengan pendekatan undang-undang dan pendekatan kasus yang berfokus terutama pada Putusan MK No. 90/PUU-XXI/2023 penelitian ini mengandalkan materi hukum primer seperti UUD 1945, undang-undang pemilu dan tata kelola daerah, dan putusan MK, serta materi sekunder dari jurnal akademik, buku, dan literatur ilmiah terkini. Temuan tersebut menunjukkan bahwa MK, dalam putusan ini, telah melampaui peran tradisionalnya sebagai legislator negatif dan telah mengasumsikan karakteristik legislator positif dengan secara efektif menciptakan norma-norma hukum baru melalui interpretasi konstitusional yang progresif, sehingga menimbulkan kekhawatiran mengenai batas-batas kewenangan yudisial, potensi pergeseran fungsi legislatif dari legislatif ke peradilan, dan perlunya memperkuat checks and balances kelembagaan untuk menjaga kepastian hukum dan legitimasi demokrasi dalam sistem konstitusional dan pemilu Indonesia.

Kata Kunci: Mahkamah Konstitusi; Kewenangan Mahkamah Konstitusi; Calon Presiden; Calon Kepala Daerah.

INTRODUCTION

The age limit in the election system in Indonesia has significant urgency in ensuring the quality of leadership, government stability, and the balance between political regeneration and leadership experience. Establishing the minimum age requirement for president and vice president, and regional head candidates aims to ensure that the candidates who advance have emotional maturity, sufficient experience, and adequate leadership capacity in running the government.¹ In addition, this regulation also functions as a legal instrument to create objective standards in selecting state leaders, avoiding political subjectivity that can open loopholes for certain interests. On the other hand, adjusting the age limit is also often debated, especially regarding the constitutional rights of citizens to be elected and the participation of the younger generation in politics. Therefore, the age limit in elections must be set by considering the balance between the representation of the younger generation in politics and the need for experience in national and regional leadership.²

The Indonesian state structure places a great deal of importance on the Constitutional Court (MK), especially in testing legal norms related to general elections. As an institution authorized to conduct judicial review of the Republic of Indonesia's 1945 Constitution (UUD 1945), The Constitutional Court functions to ensure that every regulation governing elections is by the principles of the constitution and democracy.³ Is one of the topics that has been discussed recently and regional head candidates as regulated in the Election Law and the Regional Government Law. This change in age limit has become the object of a lawsuit to the Constitutional Court because it is

¹ Aan Afandi, Beni Ahmad Saebani, et Nas Nasrudin. Tinjauan Siyasah Qadhaiyyah Terhadap Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023 Mengenai Ketentuan Tambahan Pengalaman Menjabat Kepala Daerah dan Syarat Usia Minimal Calon Presiden dan Calon Wakil Presiden , *UNES Law Review* 7, n° 1 (2024) : 297-306.

² Alya Ghina Viedini, Cikita Alodia Rahmasari, et Sarah Shafira Kurniawan. Antara Keadilan dan Etika Politik: Mahkamah Konstitusi dan Batas Usia Calon Presiden dalam Perspektif Aksiolog , *Action Research Literate* 8, n° 1 (2024) : 1-6.

³ Ika Kurniawati et Lusy Liany. Kewenangan Mahkamah Konstitusi Sebagai Negative Legislator Dalam Pengujian Undang-Undang Terhadap Undang-Undang Dasar 1945 , *ADIL: Jurnal Hukum* 10, n° 1 (2019).

considered that the provision is contrary to Citizens' constitutional right to vote in general elections.⁴

The Constitutional Court's (MK) 80/PUU-XXI/2023 ruling has sparked a lot of discussion in Indonesia's political and legal spheres. One news item is the change in The minimum age requirements for candidates running for president and regional head positions, which is considered a form of intervention against legal norms that should be determined through the legislative process in the DPR. This decision sparked debate about the extent of The authority of the Constitutional Court to interpret the law and even alter its standards.⁵ Under the Indonesian constitutional system, laws deemed to be in violation of the 1945 Constitution may be subject to legal review by the Constitutional Court.⁶ However, in this case, many parties argue that the Constitutional Court has exceeded its authority by acting like a legislator (positive legislator), not just as a guardian of the Constitution (negative legislator). This debate is increasingly complex because the decision has a major impact on the dynamics of national politics, especially in the run-up to the election. Many consider that the ruling of the Constitutional Court establishes a new precedent that can open up space for further intervention in election policy by the judiciary, which should remain independent of practical political interests.⁷

RESEARCH METHODS

The normative juridical technique, a kind of legal studies that concentrate on the examination of legal norms in laws, was the research approach employed in this study, rules, and court decisions. In this examination, both the statute approach and the case study technique were used. The Constitution of the Republic of Indonesia, 1945 contains laws regarding the minimum age limits for candidates running for president and regional head offices, the Election Law, and the Regional Government Law. These laws are examined using the statute approach. In the meantime, In order to apply the case approach, the Constitutional Court's rulings about the recent testing of legal norms pertaining to the age of new leader candidates. Both primary and secondary legal resources were employed as data sources in this study. Laws and regulations, rulings by the Constitutional Court, and other official papers pertaining to Indonesia's electoral system are examples of original legal documents. Books, scholarly publications, and scientific articles are examples of secondary legal documents. Document studies (library research) are the method used to collect the data, namely by reviewing relevant legal literature to obtain a comprehensive understanding Regarding the Constitutional Court's jurisdiction over age restrictions for regional and presidential candidates. In analyzing the data, this study uses a qualitative analysis method, where data obtained from various legal sources are analyzed in a descriptive to understand how the Constitutional Court interprets and applies its authority in choices pertaining to the upper age restriction for

⁴ Nala Syandhira Suzeeta et Kayus Kayowuan Lewoleba. Pelanggaran Kode Etik oleh Hakim Mahkamah Konstitusi Terkait Dengan Putusan Mahkamah Konstitusi Nomor 90/Puu-Xxi/2023 , *Madani: Jurnal Ilmiah Multidisiplin* 1, n° 11 (2023) : 256.

⁵ Abdul Aziz. Analisis Inkonstitutionalitas Perubahan Batas Usia Calon Presiden Dan Calon Wakil Presiden Pasca Keputusan Mahkamah Konstitusi Nomor 90/Puu-Xxi/2023 , *Jurnal Media Akademik (JMA)* 2, n° 3 (2024).

⁶ Febri Handayani et Lysa Angrayni. Implementasi Perlindungan Hak Konstitusional Warga Negara oleh Mahkamah Konstitusi Menurut Sistem Ketatanegaraan di Indonesia , *Riau Law Journal* 3, n° 1 (2019) : 44-69.

⁷ Padan Batari Siregar et al. Peran Mahkamah Konstitusi dalam Menjaga Keseimbangan Kekuasaan: Analisis terhadap Putusan MK tentang Batas Usia Capres dan Cawapres , *Al Yasini: Jurnal Keislaman, Sosial, hukum dan Pendidikan* 10, n° 6 (2025) : 414-414.

potential leaders. Finding the legal grounds for the Constitutional Court's decision and evaluating the constitutional basis for the Court's jurisdiction were the first steps in the examination., and analyzing the ruling's effects on Indonesia's democracy and electoral system. With this method, the study is expected to contribute to understanding the limits of the Constitutional Court's authority and providing recommendations for future election policies.

RESULTS AND DISCUSSION

Constitutional Court Decision No. 90/PUU-XXI/2023: A Legal Examination of the Court's Authority

In order to determine whether laws and regulations are constitutional, The 1945 Constitution can only be interpreted by the Constitutional Court (MK), particularly Article 24C paragraph (1). This clause grants the Constitutional Court the highest court's prerogative to decide cases, and its rulings are final when determining whether legislation violate the 1945 Constitution.⁸ Furthermore, issues concerning the power of governmental institutions whose powers are outlined in the 1945 Constitution, The Constitutional Court has the power to resolve disagreements over general election outcomes and political party dissolution. 2003's Law No. 24, which was subsequently revised by Law Number 7 of 2020, provides additional clarification on this authority.⁹

In the course of its duties, The Constitutional Court upholds the Constitution as well as custodian and its exclusive interpreter.¹⁰ However, this authority is not without limits. In conducting the judicial review, Only determining whether a legal standard is in The Constitutional Court has authority over disputes pertaining to the 1945 Constitution; lawmakers (the President and DPR) should have the power to establish new standards.¹¹ This idea is supported by the separation of powers principle included The 1945 Constitution's Article 1 Paragraph 3 emphasizes that Indonesia is a lawful nation with separate authority for each governmental body. In addition, in several of its decisions, the Constitutional Court also emphasized that the authority of judicial review should not be used to replace the role of lawmakers.¹²

In this context, debate arose when the Constitutional Court issued a decision that was considered not only to interpret the 1945 Constitution but also to change the legal norms previously regulated in the law, such as in Decision No. 90/PUU-XXI/2023 of the Constitutional Court regarding the upper age limit for candidates for president and regional head positions. Thus, it becomes imperative to determine the boundaries of the Constitutional Court's interpretation of the 1945 Constitution, particularly when the rulings have a significant effect on Indonesia's political and legal structures.

⁸ Kevin Jovan Aldo Joseph. Kajian Kewenangan Mahkamah Konstitusi Menurut Pasal 24C Undang-Undang Dasar Tahun 1945 Tentang Memutus Sengketa Kewenangan Lembaga Negara , *LEX ADMINISTRATUM* 9, n^o 7 (2021).

⁹ Muhammad Asro. Kewenangan Mahkamah Konstitusi Dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 , *Jurnal Abliya Hukum dan Kemanusiaan* 11 (2017).

¹⁰ Pramesti Ratu Fiqih, Adellia Mahardhika Widodo, et Anisa Miftahul Firdaus. Analisis Penerapan Rule Of Law Oleh Mahkamah Konstitusi Sebagai The Guardian Of Constitution (Studi Kasus Putusan MK Nomor 90/PUU-XXI/2023) , *DISCOURSE: Indonesian Journal of Social Studies and Education* 1, n^o 3 (2024) : 238-49.

¹¹ Adena Fitri Puspita Sari et Purwono Sungkono Raharjo. Mahkamah Konstitusi sebagai negative legislator dan positive legislator , *Sovereignty* 1, n^o 4 (2022) : 681-91.

¹² SH A Doni Silalahi. Kewenangan Yudisial Review Mahkamah Agung Terhadap Peraturan Perundang-Undangan di Bawah Undang-Undang , *Jurnal Nestor Magister Hukum* 3, n^o 3 (2016) : 209848.

The Constitutional Court adheres to the principle that more flexible changes to legal norms can provide space for young leaders who have experience in regional government to advance. Among contenders for president or vice president. In its considerations, The Court of the Constitution employs a progressive constitutionalism approach by interpreting the 1945 Constitution dynamically. One of the legal bases used as a reference is The 1945 Constitution's Article 27 Paragraph 1 declares that "All citizens have equal standing before the law and government and are obliged to uphold the law and government without exception." In addition, the Constitutional Court also refers to Article 28D of the Constitution of 1945, paragraph (3), states that all citizens have the right to equal opportunity in government. However, this decision sparked legal debate because it was considered not only to interpret norms but also to create new norms that should be the legislative domain of the DPR and the President. Many parties consider that the Constitutional Court has exceeded its authority by expanding the scope of the age limit based on experience criteria, which were not previously mentioned in the law.¹³

Election-related ramifications of Constitutional Court Decision No. 90/PUU-XXI/2023 are substantial, both in terms of regulation and democratic practices in Indonesia. First, this decision creates legal uncertainty in the nomination process, because it opens up opportunities for individuals who have not reached the minimum age previously stipulated by law, as long as they are regional heads or have been. This has the potential to cause inconsistencies in the implementation of elections, especially in the process of verification and determination of candidates by the General Elections Commission (KPU).¹⁴

Second, From the standpoint of democracy, this choice can open up wider opportunities for leadership regeneration by providing opportunities for younger candidates. However, on the other hand, sudden changes against the age limit rules can trigger political speculation and certain interests, especially if associated with the dynamics of practical politics ahead of the election.¹⁵ Third, another implication is the impact on future legislation. This decision can be a precedent for changes in legal norms through the judicial route, which has the potential to weaken the role of legislators in determining election policies. The DPR and the government will likely face pressure to revise election regulations to accommodate or adjust to this Constitutional Court decision, which could trigger further debate in the political and legal realms. Overall, Decision it has wider ramifications for Indonesia's democracy and constitutional system in addition to its technical implementation of elections.¹⁶

Constitutional Implications of the Constitutional Court Decision No. 90/PUU-XXI/2023 on the State Administration System

Decision it of the Constitutional Court (MK) had a major impact on Indonesian election law and political participation. From the perspective of election law, this ruling establishes a precedent that allows for judicial review to modify The minimum age needed to be a president and regional head candidates, not only through revisions to the law by

¹³ Ahmad Mudatsir. Melacak Kerancuan Legal Reasoning dalam Putusan MK 90/PUU-XXI/2023: Analisis dengan Metode IRAC , *Peradaban Journal of Law and Society* 2, n^o 2 (2023) : 169-83.

¹⁴ S Sulistyowati et al. Refleksi Putusan Mahkamah Konstitusi Pada Pemilihan Presiden Tahun 2024 Terhadap Politik Dan Demokrasi Indonesia , *Qanuniya: Jurnal Ilmu Hukum* 1, n^o 1 (2024) : 10-25.

¹⁵ Neri Arisuma et al. Implikasi Putusan Mahkamah Konstitusi Nomor 90/Puu-Xxi/2023 Terhadap Demokrasi Dan Regenerasi Kepemimpinan Nasional , *Lex Lectio Law Journal* 3, n^o 2 (2024) : 66-75.

¹⁶ Azmi Fathu Rohman, Naufal Rizqiyanto, et Muhammad RM Fayasy Failaq. Relevansi dan Konsistensi Penerapan Prinsip Purcell oleh Mahkamah Konstitusi Dalam Pemilihan Umum , *Lex Renaissance* 9, n^o 2 (2024) : 450-77.

the DPR and the government. This has implications for the flexibility of election rules but also has the potential to create legal uncertainty because norms that have been set out in the law can be changed through court decisions. In addition, from the perspective of political participation, this decision opens up opportunities for younger individuals to run for president or regional head, especially if they already have experience as regional heads. It can encourage leadership regeneration and increase the involvement of the younger generation in national politics. However, sudden changes to the nomination requirements can also give rise to political speculation and the potential for bias toward certain candidates, thus giving rise to negative perceptions of the independence of the Constitutional Court.¹⁷ On the other hand, this decision can also encourage revisions to election regulations in the future to be more adaptive to dynamic constitutional and political changes.

This decision can be a precedent for changes in legal norms through the judicial review mechanism in the future, which may shift legislative authority from the The President and the DPR to the Constitutional Court. If changes to legal norms that should be the realm of legislation continue to be made through Constitutional Court decisions, then a tendency towards judicial supremacy may emerge, where the Constitutional Court not only acts as an interpreter of the Constitution but also as a formulator of new norms. In the long term, this trend can inspire more parties to file judicial reviews of various legal provisions that are inconsistent with certain political or group interests. For example, other provisions in the election law, such as education requirements, experience, or nomination mechanisms, can become the object of similar lawsuits in the hope that the Constitutional Court will provide a more flexible interpretation. It could lead to legal instability if revisions to laws occur more often through the judicial process than through the legislative process in parliament.¹⁸ Overall, Constitutional Court Decision No. 90/PUU-XXI/2023 not only affects the current political contestation but also may change the pattern of legal changes in Indonesia in the future. If not anticipated properly, this could cause tension among the judicial, legislative, and executive departments of government, could have an impact on the Indonesian constitutional system's checks and balances principle.

Maintaining the balance between the independence of the Constitutional Court as the guardian of the constitution and democratic principles that place a higher priority on public participation and the authority of the legislative institution requires greater attention to the judicial review process that the Constitutional Court (MK) uses to test election norms. Clarifying the boundaries of the Constitutional Court's jurisdiction to interpret election laws is one way to make improvements. It can be accomplished by amending the Constitutional Court Law (UU MK) which emphasizes that the Constitutional Court may only test whether a norm is contrary to the 1945 Constitution, without creating new norms that are not part of its authority (*Manalu*, 2024). In addition, a better consultation or coordination mechanism is needed between the Constitutional Court and the legislative institution (DPR) in cases related to election norms. One alternative that can be considered is the establishment of a constitutional dialogue, namely a communication mechanism between A ruling by the Constitutional Court and the DPR before the Constitutional Court could alter the law's core provisions. The DPR, as the

¹⁷ Rohman, Rizqiyanto, et Failaq.

¹⁸ Stanislaus Defretin Parlan et al. Analisis Pelanggaran Kode Etik Hakim Mahkamah Konstitusi Dalam Putusan MK Nomor 90/Puu-Xxi/2023 , *JOURNAL OF LAW AND NATION* 4, n° 1 (2025) : 111-19.

legislature, can offer its viewpoint through this discussion, ensuring that the Constitutional Court's ruling upholds democratic values and the wishes of the people.¹⁹

Finally, improving the judicial review mechanism must ensure that The Constitutional Court is the guardian of the constitution continues to operate independently, but at the same time does not shift the authority of the legislative institution in determining legal norms. Thus, In order for Indonesia's legal and electoral systems to function more steadily and for democracy to remain legitimate, the Constitutional Court's independence and democratic ideals must be balanced.

CONCLUSION

Decision of the Constitutional Court it (MK) pertaining to the minimum age requirement for candidates for president and regional head positions has caused controversy in the Indonesian legal and political system. This decision has sparked debate about the urgency of age limits in elections, which aim to maintain the quality of leadership and government stability but must also consider the citizens' constitutional right to vote. Furthermore, this ruling emphasizes the boundaries of the Constitutional Court's power to interpret legislation, as many parties believe the Court has overreached its role as a constitutional protector by establishing new standards. This raises concerns about the potential precedent for further intervention in election policy through the judicial process. With broad implications for the state system and national political dynamics, this Constitutional Court decision emphasizes the need for a balance between the independence of the judiciary and the principles of democracy in the election legislation process.

The ruling affects the election law system broadly, political participation, and state dynamics, by opening up opportunities for changes to election rules through the judicial process rather than the legislative process in the DPR. This raises concerns about the potential for judicial supremacy that could shift the role of the legislative institution in determining legal policy. Therefore, it is necessary to improve the judicial review mechanism to ensure a balance between the independence concerning the Constitutional Court's role as the guardian of the democratic principle that grants the DPR jurisdiction over the legislative process. To preserve legal stability and the legitimacy of democracy in Indonesia, one potential solution is to revise the Constitutional Court Law to make clear the boundaries of the Court's jurisdiction and establish a constitutional dialogue mechanism between the Court and the DPR.

¹⁹ Titon Slamet Kurnia. Recall aswanto: tertutupnya ruang disagreement antara pembentuk undang-undang dan mahkamah konstitusi , *Refleksi Hukum: Jurnal Ilmu Hukum* 7, n^o 2 (2023) : 143-62.

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