

## The Dynamics of the Minimum Age Requirements for Presidential and Vice Presidential Candidates in the 2024 General Elections in the Constitutional Court Decision Number 90 / PUU-XXI / 2023 Reviewed from Islamic Politics

Khoiruddin Manahan Siregar<sup>1</sup>, Hendra Gunawan<sup>2</sup>

<sup>1</sup>Universitas Islam Negeri Syekh Ali Hasan Ahmad Addary Padangsidimpuan, Indonesia. E-mail: [dinmanahan@uinsyahada.ac.id](mailto:dinmanahan@uinsyahada.ac.id).

<sup>2</sup>Universitas Islam Negeri Syekh Ali Hasan Ahmad Addary Padangsidimpuan, Indonesia. E-mail: [hendragunawan@uinsyahada.ac.id](mailto:hendragunawan@uinsyahada.ac.id)

### Abstrak

This 2024 Presidential and Vice Presidential Election has its own uniqueness with the emergence of youth issues, which has an impact on Article 169 letter (q) of Law of the Republic of Indonesia Number 7 of 2017 concerning General Elections which states that the minimum age is 40 (forty) years, then according to the Constitutional Court Decision Number 90/PUU-XXI/2023, candidates aged less than 40 (forty) years are still permitted, but with special requirements. The dynamics of the minimum limits for Presidential and Vice Presidential candidates have reaped pros and cons in society, this is what motivates the author to look at it from the fiqh siyasah (Islamic government system) approach. Answering this problem, the author formulates the problem, namely how the dynamics of changes in the age limit for President and Vice President candidates, then observes it from the Islamic government system, so to find the answer the author explores it through literature studies or references that discuss the Islamic political system. Findings that the dynamics of the age limit for Presidential and Vice Presidential candidates according to Law Number 7 of 2017 concerning General Elections and Constitutional Court Decision Number 90/PUU-XXI/2023 are at least 26 (twenty six) years old if they have previously served as members of the DPR, DPD and DPRD, but if you have never been elected as a member of the DPR, DPD and DPRD, the minimum age is 40 (forty) years. Meanwhile, in the Islamic government system or Islamic politics, it does not emphasize the requirements for candidates for leadership or President and Vice President, but rather prioritizes the concept of puberty (maturity). It seems that Islam has given the green light to reduce the minimum age limit for candidates for President and Vice President.

**Keywords:** Minimum, Age, President, Vice President, and Islam

### INTRODUCTION

The development of democracy in Indonesia occurs dynamically, this is influenced by political culture, political forces and the behavior of political actors, since the General Election

(Pemilu) in 1999 the dynamics of democracy have become more vibrant and rapid, then peaked after the 2004 direct presidential elections and direct regional head elections (Pilkada) in 2005.<sup>1</sup>

Maintaining democracy is not easy, especially in the election of state leaders, namely the President and Vice President, which is a fairly crucial position because it can affect the quality of governance in the future, so this part requires mutual attention, so that the election results really present the figure of the President and Vice President who are qualified to manage a better government. Maintaining the quality of the nation's leaders certainly requires a balanced synergy between government elements so as to produce a more stable political life, including the Constitutional Court (MK) must play an active role in regulating this matter.<sup>2</sup>

The Presidential and Vice Presidential Elections in 2024 this time, has its own uniqueness with the emergence of youth issues, so that it has an impact on article 169 letter (q) of Law Number 7 of 2017 concerning General Elections which reads at least 40 (forty) years old. According to young people, a leader does not need to be limited to having three attitudes, namely innovative, intelligent, and having a strong spirit, so that later it will improve the systematic governance of a more advanced Indonesia. So according to them, this minimum age restriction of 40 (forty) years is considered to greatly hinder or block the development and progress of the younger generation in the contestation of national leaders, not only that but it has the potential to degrade the chances of millennial generation figures who are ready to improve Indonesia.

The youth issue above, gradually managed to obscure the sound of Article 169 letter (q) of Law Number 7 Year 2017 concerning General Elections which requires candidates for President and Vice President to be at least 40 (forty) years old to be flexible, that is, candidates under the age of 40 (forty) years can still be submitted as candidates for President and Vice President as long as they have experience in holding or currently holding positions as officials elected through elections such as members of the House of Representatives (DPR), members of the Regional Representatives Council (DPD), members of the Regional Representatives Council (DPRD), Governors, Regents, or Mayors based on Constitutional Court Decision Number 90/PUU-XXI/2023. However, some people consider this decision as a form of government inconsistency in maintaining legal certainty, and some even think that there is an element of nepotism in this decision. The dynamics of the minimum limit for the President and Vice President candidates have drawn pros and cons in the community, this is what motivates the author to look at it from the approach of *fiqh siyasah* (Islamic government system).

## **METHOD**

Answering this problem, the author formulates the problem, namely how the dynamics of changes in the age limit for President and Vice President candidates, then observes it from the Islamic government system, so to find the answer the author explores it through literature studies or references that discuss the Islamic political system.

## **RESEARCH RESULTS**

### **Dynamics of Age Limit Changes for Presidential and Vice Presidential Candidates**

#### **1. The Age of Indonesian Presidents from Year to Year subchapter of research results**

The age of the President of Indonesia from time to time when inaugurated varies greatly, starting from Soekarno who was inaugurated as the first President of the Republic of Indonesia in 1945 when he was 44 years old. Then Soeharto was the second President who

---

<sup>1</sup> Alifia Silvi Fatiha, Sorharjoto, dan Wahyuningsih Santosa, "Pemilihan Umum Sebagai Wujud Pelaksanaan Demokrasi di Indonesia," *Jurnal Pendidikan Dasar dan Humaniora*, Volume 1, No,3 (2022): hlm. 347.

<sup>2</sup> Fauzan Khairazi, "Implementasi Demokrasi dan Hak Asasi Manusia Di Indonesia," *Jurnal Inovatif* Volume 8, No.1 (2015): hlm. 88.

was inaugurated in 1966 at the age of 45. Then Bacharuddin Jusuf Habibie or BJ Habibie was the third President who was inaugurated at the age of 61 in 1998. Then Abdurrahman Wahid or familiarly called Gus Dur was the fourth President who was inaugurated as President in 1999 when he was 59 years old. Meanwhile, Megawati Soekarnoputri was the fifth President who was inaugurated at the age of 54 in 2001. Furthermore, Susilo Bambang Yudhoyono or familiarly called SBY is the sixth President who was inaugurated at the age of 55 in 2004, finally Joko Widodo or Jokowi is the seventh President who was inaugurated in 2014 at the age of 53. The seven Presidents above, Soekarno who can be named the youngest President when inaugurated at the age of 44 years, while the oldest President was achieved by BJ Habibie at the age of 61 years.

## 2. Indonesian Vice President's Age from Year to Year

Since the independence of Indonesia on August 17, 1945 until now, there have been 13 (thirteen) periods of leadership of the President and Vice President in Indonesia, as many as 12 (twelve) people have held the position of Vice President. ranging from Mohammad Hatta to Ma'ruf Amin, the Vice Presidents of Indonesia served at various ages, while the easiest Vice President recorded in history was held by Mohammad Hatta because he was inaugurated as Vice President at the age of 43 (forty-three) years.

The age of the Indonesian Vice President from time to time, namely Mohammad Hatta as the first Vice President who served from 1945 to 1956 was inaugurated as Vice President at the age of 43, then Sri Sultan Hamengkubuwana IX as the second Vice President who served from 1973 to 1978 who was inaugurated as Vice President when he was 61 years old, then Adam Malik Batubara as the third Vice President who served from 1978 to 1983 who was inaugurated as Vice President when he was 61 years old, then General (Ret.) Umar Wirahadikusumah as the fourth Vice President who served from 1983 to 1988 was inaugurated as Vice President at the age of 59 years. Then continued (Ret.) H. Soedharmono was the fifth Vice President who served from 1988 to 1993 who was inaugurated as Vice President at the age of 61, followed by Gen(Ret.) H. Try Sutrisno was the sixth Vice President from 1993 to 1998. He was sworn in as Vice President when he was 58 years old. Then continued Bacharuddin Jusuf Habibie was the seventh Vice President who served briefly from March 14, 1998 to May 21, 1998 who was inaugurated as Vice President at the age of 62, then continued Megawati Soekarnoputri was the eighth Vice President who served from 1999 to 2001 who was inaugurated as Vice President when she was 52 years old, then continued Hamzah Haz was the ninth Vice President who served from 2001 to 2004 who was inaugurated as Vice President when he was 61 years old, after that Muhammad Jusuf Kalla was the tenth and twelfth Vice President.

who was sworn in as Vice President for the first time at the age of 62 and served as Vice President from 2004 to 2009. Then, in 2014, Jusuf Kalla returned to serve as Vice President at the age of 72. While Boediono Boediono is the 11th Vice President who served from 2009 to 2014. who was inaugurated at the age of 66 years, and finally Ma'ruf Amin is the thirteenth Vice President who began serving in 2019 to 2024 who was inaugurated as Vice President at the age of 76 years.

The description above explains that the youngest age of a Vice President was achieved by the first Vice President, Mohammad Hatta, who occupied the Vice President seat at the age of 43, while the oldest Vice President was achieved by the thirteenth Vice President, Ma'ruf Amin, at the age of 76.

## 3. Age Limit for Presidential and Vice Presidential Candidates According to Law Number 7/2017 on General Elections

Article 169 letter (q) of Law Number 7 Year 2017 on General Elections reads at least 40 (forty) years old, this indicates that a candidate for President and Vice President must be at

least 40 (forty) years old, because public office in the case of President and Vice President must be filled by experienced people.<sup>3</sup>

According to some people, the age limit for Presidential and Vice Presidential candidates has undermined the purpose of the election itself, because basically the election system is a means for the people to aggregate their aspirations and interests. Therefore, in essence, elections are not just participation but more than an implementation of the principle of popular sovereignty.<sup>4</sup>

General elections can be interpreted as one of the media means of realizing democratic relations between the people and the government, so the achievement of victory in the real election or the winner of the battle in the election is to find potential leaders in the field of leadership aspects not mere seniority. The assumption circulating in the community, that leaders aged 36-45 years are assumed to have the highest performance value because they are still energetic (strong) while the age of 56 or more has a relatively low performance value because they are old so they are no longer strong, in the 36-45 age category seems to be very enthusiastic and optimistic about future thinking, on the contrary, the age category 56 or more will tend not to focus on the future.

The age restriction of 40 (forty) years of age is considered by some to be contrary to the principle of the rule of law that guarantees the rights of all people equally in law and government as stipulated in the 1945 Constitution (UUD 45). Even though according to psychologists, that the higher a person's age, the more developed he/she will be, having a good understanding of the stages of development in achieving the best potential, according to anthropologists that the older a person is, the more he/she can improve his/her social connections in society, according to biologists that the older a person is, the more mature he/she will be in maintaining health and minimizing the risk of disease, according to sociologists that the older a person is, the higher his/her level of understanding of generational and cultural differences in viewing life, according to economists that the older a person is, the more he/she can increase his/her income and welfare.

According to legal experts, the older a person gets, the more aware he or she will be of his or her rights and obligations, while according to philosophers, age can be a symbol of wisdom and gratitude for the gift of life given by God Almighty.

#### 4. Age Limit for Candidates for President and Vice President According to the Constitutional Court Decision Number 90/PUU-XXI/2023

The Constitutional Court Decision Number 90/PUU-XXI/2023 indirectly reduces the minimum age of candidates for President and Vice President, namely for candidates under the age of 40 (forty) years can still be submitted as candidates for President and Vice President as long as they have experience in holding or currently holding positions as officials elected through elections such as members of the House of Representatives (DPR), members of the Regional Representatives Council (DPD), members of the Regional Representatives Council (DPRD), Governors, Regents, or Mayors.

Based on the narrative above, it can be concluded that a person who wants to run for President and Vice President who is still under 40 (forty) years old but has been elected through elections such as members of the House of Representatives (DPR) which is required at least 21 (twenty-one) years, members of the Regional Representatives Council (DPD) which is required at least 21 (twenty-one) years, members of the Regional Representatives Council

---

<sup>3</sup> Sofyan, H "Fungsi Representatif DPRD Dalam Sistem Otonomi," Jurnal Ilmu Hukum, Vol 9 , No. 17, (2013), hlm. 48.

<sup>4</sup> Lutfi Widagdo, "Wacana Desentralisasi Partai Politik" Jurnal Konstitusi, Vol 14, No. 1, 2017, hlm 82

(DPRD) which is required at least 21 (twenty-one) years, Governors who are required at least 30 (thirty) years, Regents, or Mayors who are required at least 25 (twenty-five) years.

The author interprets that based on the minimum age limit that is used as a supporting requirement for candidates for President and Vice President, members of the DPR, DPD, DPRD are 21 (twenty-one) years old, followed by the minimum age limit for members of Regents and Mayors, followed by the minimum age limit for members of Governors which is 30 (thirty) years old. Thus, a person who is elected as a member of the DPR, DPD, or DPRD at the age of 21 (twenty-one) years, then he will end his term of office at the age of 26 (twenty-six) years so that he can run to become a candidate for President and Vice President at the age of 26 (twenty-six) years.

The dynamics of the minimum age limit for candidates for President and Vice President, especially the Constitutional Court Decision Number 90/PUU-XXI/2023, is very controversial in the community, because it is considered that the Constitutional Court is contaminated with politics or too involved in the legislative realm, as well as the impression of the rule of law in interpreting and applying positive law, lest the change in the minimum age limit for candidates for President and Vice President is only for momentary interests, or the interests of certain people.

Apart from the above assumptions, the Constitutional Court does have the authority to examine the law as stipulated in Article 10 paragraph (1) letter (a) which explains that the Constitutional Court has the authority to hear at the first and final level whose decisions are final to test the Law against the 1945 Constitution.<sup>5</sup>

There are 2 (two) types of testing of laws against the 1945 Constitution, namely material testing and formal testing, material testing with regard to the content of paragraphs, articles, or parts of the contents of the Law that are contrary to the 1945 Constitution. According to progressive law, that the law is made not solely for the law itself, but the law is made to protect human beings, in other words that the ideology of law is not only in favor of justice but also must be in favor of the people, so that if a rule of law hinders the interests of the people, it must be changed to meet the needs of the people, including the election of candidates for President and Vice President, if it is necessary to attract youth for the progress of the nation, then why not.

### **Age Limit for Presidential and Vice Presidential Candidates According to Political Islam**

#### **1. The Prophet Muhammad as the Leader of the City of Medina was 40 years old**

If a President is interpreted as a caliph (leader), then the Prophet Muhammad SAW as an Age Limit for Presidential and Vice Presidential Candidates According to Political Islam Rasulullah SAW is a leader for all Muslims, so based on historical traces the Prophet Muhammad SAW was appointed as the Messenger of Allah at the age of 40 (forty) years. This is in accordance with the lowest age limit for Presidential and Vice Presidential candidates is the age of 40 (forty) years. The appointment of the Prophet Muhammad SAW as an apostle at the age of 40 (forty) years is considered to have physical and psychological maturity compared to before he was entrusted with leadership, appointed the Prophet Muhammad as the Messenger of Allah at the age of 40 (forty) years.<sup>6</sup>

The journey of the life of the Prophet Muhammad SAW lasted for 40 (forty) years had been tested with several tests, even since he was in the womb, from all the tests of life that made the physical and psychological of the Prophet Muhammad SAW more mature in facing all state affairs. Moving on from here, some Islamic political experts assume that the

---

<sup>5</sup> Nanang Sri Darmayadi, "Kedudukan Dan Kewenangan Mahkamah Konstitusi Dalam Sistem Hukum Ketatanegaraan Indonesia," Jurnal Hukum, Vol 2, No. 14. (2011), hlm 8.

<sup>6</sup> Muh Rawwas, Sisi Politis Perulangan Rasulullah Saw, (Bogor: Al-Ahar), 2007, hlm 41.

determination of the Prophet Muhammad SAW as an apostle at the age of 40 (forty) years is not a coincidence, but a really mature preparation. This can be seen from the success of the Prophet Muhammad in building the city of Medina in a relatively short time.<sup>7</sup>

The maturity of a human being, if you consider at first glance that the age of maturity of a person is generally around the age of 40 (forty) years, but this is only in general, it does not mean that it closes later before the age of 40 (forty) years, this is illustrated in surah Al-Ahqaf verse 15 which reads as follows:

وَوَصَّيْنَا الْإِنْسَانَ بِوَالِدَيْهِ إِحْسَانًا حَمَلَتْهُ أُمُّهُ كُرْهًا وَوَضَعَتْهُ كُرْهًا وَحَمْلُهُ وَفِصَالُهُ ثَلَاثُونَ شَهْرًا حَتَّىٰ إِذَا بَلَغَ أَشُدَّهُ وَبَلَغَ أَرْبَعِينَ سَنَةً قَالَ رَبِّ أَوْزِعْنِي أَنْ أَشْكُرَ نِعْمَتَكَ الَّتِي أَنْعَمْتَ عَلَيَّ وَعَلَىٰ وَالِدَيَّ وَأَنْ أَعْمَلَ صَالِحًا تَرْضَاهُ وَأَصْلِحْ لِي فِي ذُرِّيَّتِي إِنِّي تُبْتُ إِلَيْكَ وَإِنِّي مِنَ الْمُسْلِمِينَ

*"And We have enjoined upon man, to his parents, good treatment. His mother carried him with hardship and gave birth to him with hardship, and his gestation and weaning [period] is thirty months. [He grows] until, when he reaches maturity and reaches [the age of] forty years, he says, "My Lord, enable me to be grateful for Your favor which You have bestowed upon me and upon my parents and to work righteousness of which You will approve and make righteous for me my offspring. Indeed, I have repented to You, and indeed, I am of the Muslims." (Qs. Al-Ahqaf: ayat 15)*

## 2. Umar bin Abdul Aziz became Caliph at the age of 35

Umar bin Abdul Aziz had become caliph when he was 35 years old, this shows that there is actually no direct or absolute relevance of age 40 (forty) years with leadership, but the most important thing in leadership is the ability to lead and have good morals. History records that the Prophet Muhammad SAW once appointed a 17-year-old warlord, namely Muhammad Alfatih against Byzantine power, breaking into Constantinople which is now Istanbul, if Muhammad Alfatih had received the position of warlord (leader), then the age requirement of candidates who must be 40 (forty) years old is no longer relevant, but rather to the skill or ability of a person.

Imam Shafi'i also became Mufti at the age of 15 (fifteen) years, from this it can be seen that age has no direct relevance to a person's skill or ability, so in Islam the main requirement is baligh (maturity). The maturity intended here is not only maturity in the intellectual field but also maturity in the field of character or akhlakul karima, as confirmed by Rasulullah SAW that a leader is not only the smartest person, but also the one who has the best character.

## CONCLUSION

The dynamics of the age limit of candidates for President and Vice President according to Law Number 7 of 2017 concerning General Elections and Constitutional Court Decision Number 90/PUU-XXI/2023 is a minimum of 26 (twenty-six) years old if they have served as members of the DPR, DPD, and DPRD, but if they have never been elected as members of the DPR, DPD, and DPRD, then the minimum age is 40 (forty) years. Meanwhile, in the Islamic system of government or Islamic politics does not emphasize as a requirement for candidates for leaders or President and Vice President, but rather emphasizes the concept of baligh (maturity). It seems that Islam gives the green light to the reduction of the minimum age limit for candidates for President and Vice President.

## REFERENCES

Darmayadi, Nanang Sri, "Kedudukan Dan Kewenangan Mahkamah Konstitusi Dalam Sistem Hukum Ketatanegaraan Indonesia," Jurnal Hukum, Vol 2, No. 14, 2011.

---

<sup>7</sup> Bagus Riyano, Psikologi Kepemimpinan, (Yogyakarta, 2001), hlm 89.

- Fatiha, Alifia Silvi, Sorharjoto, dan Santosa, Wahyuningsih, "Pemilihan Umum Sebagai Wujud Pelaksanaan Demokrasi di Indonesia," *Jurnal Pendidikan Dasar dan Humaniora*, Volume 1, No, 3, 2022.
- Khairazi, Fauzan, "Implementasi Demokrasi dan Hak Asasi Manusia Di Indonesia," *Jurnal Inovatif* Volume 8, No.1, 2015.
- Puspitasari. "Pemilu Dan Demokrasi Telah Terhadap Prasyarat Normatif Pemilu," *Jurnal Hukum IUS QUIA IUSTUM*, Vol 11, No. 25, 2016.
- Rawwas, Muh, Sisi Politis Perulangan Rasulullah Saw, Bogor: Al- Ahar, 2007.
- Riyano, Bagus, Psikologi Kepemimpinan, Yogyakarta, T.P, 2001.
- Sofyan, H "Fungsi Representatiev DPRD Dalam Sistem Otonomi," *Jurnal Ilmu Hukum*, Vol 9 , No. 17, 2013.
- Widagdo, Lutfi, "Wacana Desentralisasi Partai Politik" *Jurnal Konstitusi*, Vol 14, No. 1, 2017.
- Wabsite :  
<https://www.kompas.com/stori/read/2023/11/16/190000779/usia-wakil-presiden-indonesia-dari-masa-ke-masa?page=all> (Diakses 2 Juli 2024)  
<https://www.mkri.id/index.php?page=web.Berita&id=19660&menu=2> (Diakses 2 Juli 2024)