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Delinquency of Constitutional Court Decision Number 90/PUU-XXI/2023 on Age Limit Requirements for Presidential and Vice Presidential Candidature

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Abstract: The Constitutional Court is an institution of judicial power which has a judicial function to uphold law and justice. Law Number 24 of 2003 explains that the duties and functions of the Constitutional Court are to handle constitutional cases regarding certain constitutional matters in order to safeguard the constitution so that it is implemented responsibly in accordance with the will of the people and democratic ideals. One of the powers of the Constitutional Court is the authority of "judicial review", namely the authority to review laws where the decisions are final and binding. This authority is very important because it is a legal corridor and a way for citizens to defend their constitution. If there is a conflicting law, they can request it to be cancelled, but on the one hand, this authority is so large that in maintaining the constitution, constitutional judges are certainly needed who have knowledge and expertise. State administration and commitment to implementing and monitoring it in accordance with the corridors of the constitution, so that every decision that is issued does not go outside the corridors so that the constitution itself is constitutionally maintained. This research was written using normative juridical methods and was based on current phenomena. The results obtained are the importance of the role of the Constitutional Court in handing down decisions because the Constitutional Court's decisions are final and have binding legal force. Judges must have high integrity, be independent and free from any influence. The public and state administrators must be able to restore the dignity of the Constitutional Court by starting with the recruitment of constitutional judges and ensuring that the functions and authority of the Constitutional Court run in accordance with the ideals of its formation.

Keyword: Justice, Judge's Decision, Constitutional Court

INTRODUCTION

The Constitutional Court possesses the jurisdiction to adjudicate cases both at the initial and final stages. Its rulings are conclusive in assessing the compatibility of laws with the Constitution, resolving conflicts regarding the jurisdiction of state institutions established by the Constitution, determining the dissolution of political parties, and settling disputes concerning the outcomes of general elections, as stipulated in Article 24C paragraph

(1) of the 1945 Constitution. The Constitutional Court, an entity within the judiciary, conducts a judicial review, often referred to as a material test or review, of decisions taken by the legislative and/or executive branches of government. Historically, the *Marbury v. Madison* case in America was a pivotal moment that introduced judicial review as a significant legal advancement. In this instance, Justice Marshall declared the Supreme Court's ability to issue a "writ of mandamus" to the executive, as outlined in the Judiciary Act, as illegal, noting it as a breach of the principle of separation of powers. (Renquest (1989) The ruling served as the basis for the establishment of the practice of constitutional review in the United States, which subsequently gained global recognition, including in Indonesia.

The teachings of Hans Kelsen had a significant impact on the formation of the Constitution, which is regarded as the supreme rule governing the organisation of the state and cannot be superseded by any lower norms (Hans Kelsen, 1961).

*“the norm determining the creation of another norm is the superior, the norm created according to this regulation, the inferior norm”. the unity of these norms is constituted by the fact that the creation of one norm the lower one is determined by another the higher the creation of which is determinedly a still higher norm and that this regress is terminated by a highest, the basic norm which, being the supreme reason of validity of the whole legal order, constitutes its unity.*³

The coherence of norms arises from the hierarchical relationship between them, where a superior standard establishes the need for a subordinate norm, which in turn establishes the need for an even higher norm. The process ultimately results in the establishment of a higher standard, referred to as the basic norm, which acts as the ultimate foundation for the legitimacy of the entire legal system.

This country possesses a codified fundamental structure in its constitution. In the case of Indonesia, our constitution is known as UUD 1945, and there also exist uncodified constitutional conventions. The 1945 Constitution of Indonesia serves as the primary legal authority in the country. As such, the principles and legal creations of Indonesia should align with the Constitution, particularly its preamble, which embodies the fundamental values of Indonesian legal philosophy (Juanda, 2022). To ensure the enforcement and protection of the constitution as the supreme law, and to prevent any legal provisions that contradict it, it is essential to establish a constitutional guardian institution known as The Guardian of the Constitution. In Indonesia, this institution operates based on the principles of the rule of law and democracy. The establishment of a Constitutional Court is crucial in the judicial process, as it ensures that the people maintain sovereignty.

The Constitutional Court adheres to principles that are universally applicable to all courts, including those that are specifically tailored to the distinctive characteristics of its own judiciary. One of these principles is the requirement of independence and impartiality, which necessitates the objective and equitable assessment and resolution of situations. Judges and institutions must uphold their autonomy by refraining from any interference by institutions or interests, avoiding adopting a partisan stance with any of the plaintiffs, and ensuring impartiality. Independence and impartiality can be understood in three distinct dimensions: functional, structural, and personal. (Siahaan, 2015). The functional dimension entails that other state institutions and all parties are forbidden from exerting influence or meddling in the process of reviewing, adjudicating, and determining a case. The functional dimension of judges relies on the independence and impartiality of both their structural and personal characteristics. For judicial institutions, it is essential to uphold their independence and impartiality, ensuring that they are not influenced or biased in carrying out their judicial responsibilities. On a personal level, judges possess autonomy derived from their competence, responsibility, and adherence to the code of ethics and conduct. (Siahaan, 2015).

The enactment of PMK No. 09/PMK/2006 aims to uphold the autonomy and fairness

of constitutional judges and the Constitutional Court by enforcing the Declaration on the Code of Ethics and Behaviour of Constitutional Judges. The Declaration places particular emphasis on the first part, which concerns the independence of constitutional judges.

“The autonomy of judges is a fundamental requirement for achieving the principles of the rule of law and ensures the formation of fair and just legal systems. This principle is profoundly embedded in the assessment and decision-making process of every case. It is strongly connected to the court's independence as a respected, dignified, and reliable judicial institution. Judges, whether acting individually or as a collective body, exhibit their autonomy and immunity from outside pressures. These influences can manifest as persuasion, pressure, coercion, threats, or countermeasures, such as political or economic interests from the government or governing political authority, certain groups, or promises of positional rewards, economic benefits, or other incentives (PMK MK, 2006)

The application of the principle is as follows:

1. Judges must perform their duties independently, free from external influence or interference, including coercion, manipulation, inducements, or obstruction by any party, if they adhere diligently to the law. They should make their conclusions only based on their knowledge of the facts.
2. Judges must maintain independence and not be influenced by public opinion, media influence, or the parties involved in the issue they are responsible for resolving.
3. Judges are required to uphold their autonomy and refrain from being influenced by executive, legislative, and other governmental organisations.
4. When performing their judicial responsibilities, judges must ensure that they make decisions without being influenced by their peers.
5. Judges have the responsibility to promote, maintain, and enhance the assurance of autonomy in carrying out their judicial responsibilities, both on an individual basis and as part of the legal system.
6. Judges are required to uphold and exhibit an autonomous reputation and uphold elevated levels of behaviour to enhance public trust in the legal system.

The second section of the declaration delineates the principle of impartiality in the following manner:

“Impartiality is an essential element in the judge's role, since they are supposed to deliver a fair resolution for each case presented before them. Impartiality encompasses maintaining a neutral stance while also recognising the significance of achieving a fair balance between the many interests involved in the issue. This principle is intrinsic and should be evident throughout the stages of the case investigation process, leading up to the decision-making stage. This ensures that the court's judgement is really regarded as a just legal resolution by all parties involved in the case and the broader community at large.”

The execution of the principle of impartiality is as follows:

- a. Judges are required to perform their judicial responsibilities impartially, without any prejudice, bias, or favouritism towards any of the parties involved.
- b. Judges are required to exhibit conduct, both within and outside the courtroom, in order to uphold and strengthen the trust of the public, the legal community, and the litigants in the fairness of judges and the judicial system.
- c. Judges should try to reduce factors that could potentially render them unfit to preside over cases and render judgements.
- d. Judges are forbidden from making public statements about cases that are now under review, being reviewed, or have already been decided, whether by themselves or by other judges. However, there are some exceptions to this rule, which allow judges to provide comments solely for the purpose of explaining their decision.
- e. A judge must recuse themselves from hearing a case if they are unable to be impartial for any of the following reasons, unless it would result in a lack of quorum:

1. The judge exhibits clear bias against one of the parties; and/or
2. The judge or a member of their family has a personal stake in the outcome of the ruling.

Following the premise, the occurrence that ensued after the Constitutional Court Decision No. 90/PUU-XXI/2023 resulted in a tumultuous political climate and elicited intense reactions from all sectors of society and legal professionals. A significant number of individuals in the community view this decision as a strategic move by a family member to assist a vice-presidential contender in their bid for progress in the 2024 elections (<http://hukum.uib.ac.id>: 2023)

Although the vice president's age does not meet the eligibility criteria, the Constitutional Court's ruling permits him to assume the position of vice president due to his existing duty as the Head of Region for Indonesia. The society has offered many views and evaluations to appraise the verdict made by the Constitutional Court. Prof. Dr. Muchamad Ali Safa'at, a Constitutional Law professor at the Faculty of Law, Universitas Brawijaya, pointed out that there were anomalies associated with this ruling. In the decision No. 90/PUU-XXI/2023, Prof. Dr. Muchamad Ali Safa'at, SH, M.H. argues that the Constitutional Court has introduced a new norm that deviates from its original purpose of examining existing norms and assessing their constitutionality (Faculty of Law, Universitas Brawijaya, 2023). From a criminological standpoint, the Constitutional Court has rendered decisions that are aberrant and atypical, resulting in disagreement among the populace. Despite the verdict, the Constitutional Court case No. 90/PUU-XXI/2023 faced criticism due to procedural flaws during the trial.

The Constitutional Court has partially approved the petition about the age restriction for presidential and vice-presidential candidates who have previously held elected positions as state officials, including regional head elections (pilkada). The judgement was made because both the President and the DPR had provided their definitive interpretation of the age limit stated in Article 169, letter q, of the Election Law to the Constitution. Nevertheless, the Constitutional Court dismissed numerous other applications for judicial review that put up same reasons. The cases that were included are as follows: case No. 29/PUU-XXI/2023 involving the Indonesian Solidarity Party, case No. 51/PUU-XXI/2023 involving the Gelora Party, and case No. 55/PUU-XXI/2023 involving the Mayor of Bukittinggi Erman Safar and the Deputy Regent of South Lampung Pandu Kesuma Dewangsa. The Constitutional Court contended that it is the duty of legislators to establish the age restriction for presidential and vice-presidential candidates (legal policy). Nevertheless, in this specific instance, the Constitutional Court approved the petition. The following text is from an article published on The Conversation in 2023.

In this study, the author attempts to establish a connection between the term "delinquency/delinquent," widely recognised in criminology as deviant activity that goes against societal standards, hence inviting criticism and potentially leading to disorder. The ruling of the Constitutional Court, as stated in Decision Number 90/PUU-XXI/2023, has generated discussions and disputes within society due to the violation of societal standards through ethical and moral deviations.

This study aims to investigate the Constitutional Court's authority and influence in adjudicating a judicial review petition in compliance with the law, as described above. The decision rendered by the Constitutional Court, identified as Number 90/PUU-XXI/2023, is a controversial judgement that ignites philosophical discussions among the populace.

METHOD

This study employs a normative legal methodology, utilising library materials as secondary data for qualitative analysis. Our approach involves organising the gathered material in a methodical way, and then conducting a qualitative analysis to elucidate the

legal products or decisions made by the Constitutional Court. In this study, we utilise the frameworks of legislation, legislative change theory, law enforcement theory, judicial review norms, and law enforcement theory to investigate issues that are related to the authority of the Constitutional Court and the Indonesian constitutional legal system. This research utilises a descriptive analytical methodology to provide a comprehensive and systematic portrayal of the subject of study, which is the legal research on the Constitutional Court's Decision Number 90/PUU-XXI/2023, from a philosophical standpoint.

RESULTS AND DISCUSSION

a. Functions, Duties, and Authority of the Constitutional Court in deciding the petition for judicial review according to the law

Article 7B, Article 24 paragraph (2), and Article 24C of the 1945 Constitution, as formed by the third amendment, serve as the legal foundation for the creation of the Constitutional Court. Although the Constitutional Court had been legally established, it had not yet attained full capacity to carry out its responsibilities and exercise its jurisdiction. To address this issue, the fourth amendment of the 1945 Constitution incorporated a provision in the transitional regulations of Article III, which required the establishment of the Constitutional Court by August 17, 2003. The implementation of this regulation resulted in the enactment of Law Number 24 of 2003, which pertains to the Constitutional Court, on August 13, 2003. The Constitutional Court, as defined by Law Number 24 of 2003, is responsible for adjudicating constitutional cases related to specific constitutional issues. Its main role is to ensure the proper enforcement of the constitution in accordance with the desires of the people and democratic principles.

The Constitutional Court's judiciary ensures that the constitution serves as the ultimate standard for justice and law. It interprets the constitution by considering not only its explicit rules, but also the underlying moral and legal values of the state and democracy. This ensures the protection of human rights and the preservation of citizens' constitutional rights. The Constitutional Court has five functions: serving as the Guardians of the Constitution, acting as the final interpreter of the Constitution, safeguarding human rights, protecting people's constitutional rights, and ensuring the preservation of democracy (Mahfud MD, 2012).

The responsibilities of the Constitutional Court are specified in Article 24, paragraphs (1) and (2) of the 1945 Constitution. These paragraphs explain the powers and tasks of the Constitutional Court. The Constitutional Court is granted several authorities as outlined in Article 10 paragraph (1) of Law Number 24 of 2003. Firstly, it has the power to hear cases at both the initial and final level, making its decisions on the constitutionality of laws in relation to the 1945 Constitution. Additionally, the Constitutional Court is empowered to settle disputes concerning the authority of state institutions that derive their power from the 1945 Constitution. Furthermore, it possesses the authority to make decisions regarding the dissolution of political parties. Lastly, the Constitutional Court is responsible for resolving disputes related to General Elections. The Constitutional Court is obligated to render a verdict on the House of Representatives' opinion regarding alleged constitutional violations by the President and/or Vice President. (Maruaraar, 2015).

Law Number 8 of 2011, known as UUPUUMK, governs the Constitutional Court's exercise of authority and includes amendments to the Law on the Constitutional Court. The Constitutional Court Law outlines the responsibilities and functions of the Constitutional Court, which involve adjudicating specific constitutional cases to ensure the constitution is implemented responsibly, in accordance with the people's will and democratic principles, despite the difficulties arising from different interpretations of the constitution. The Constitutional Court, being a judicial body, possesses the power to assess the provisions in the law in relation to the constitution both in substance and in form. According to Article

51A of the Law on Amendments to the Constitutional Court Law, the Constitutional Court examines formal testing petitions and makes decisions based on laws and norms that define the legislative process. Articles 50 to 60 of the Constitutional Court Law, the Law on Amendments to the UUMK, and Constitutional Court Regulation Number 06/PMK/2005 govern the process of reviewing laws under the Constitutional Court's Procedural Law. (March, 2015)

When an applicant seeks a material test for judicial review, the Constitutional Court will evaluate whether the material test or norm of the law is against the standards of the 1945 Constitution or not. The Constitutional Court will declare the statutory norm in dispute as unconstitutional, so rendering it legally invalid. If the Constitutional Court does not identify any inconsistency between the provisions of the law under examination and the provisions of the 1945 Constitution, it will dismiss the petition filed by the petitioners. This implies that the provisions of the law being examined are not in conflict with the provisions of the 1945 Constitution, and therefore, they continue to be legally valid and enforceable.

Article 56 of the Constitutional Court Law regulates three kind of judgements that demonstrate the impermissibility of an application: a judgement that approves it, and a judgement that denies it. Moreover, in accordance with Article 57 paragraph (2a) of the Law on Amendments to the Constitutional Court Law, the jurisdiction of the Constitutional Court is limited to the decisions specified in the Constitutional Court Law, its amendments, instructions to the legislature, and the establishment of regulations to replace statutory provisions from the 1945 Constitution. Based on the interpretation, the Constitutional Court has the power to reject or invalidate an article, but it does not have the jurisdiction to establish new norms. Its role is limited to nullifying existing norms that are against the 1945 Constitution.

b. Analysis of the applicant's legal standing in Constitutional Court Decision Number 90/PUUXXI/2023

Almas Tssaqibbirru, a student of Surakarta State University (UNS), initially submitted the application for judicial review in case number 90/PUU-XXI/2023. The applicant, in his application, has cited Article 51 paragraph (1) of Law Number 24 of 2003 concerning the Constitutional Court Jo. Law Number 7 of 2020 concerning the Third Amendment to Law Number 24 of 2003 concerning the Constitutional Court. According to this provision, the applicant claims to be a party whose rights and/or constitutional rights have been violated by the implementation of the law.

- a. Individual Indonesian citizens;
- b. Customary law communities, if they continue to exist and adhere to the development of society and the principles of the Unitary State of the Republic of Indonesia, as regulated by law.
- c. Public or private legal entities;
- d. State institutions.

Based on the preliminary hearing, it was revealed that the applicant held a high regard for Gibran Rakabuming Raka, who is the current Mayor of Surakarta for the 2020-2025 term. Based on the applicant's argument, the Mayor of Surakarta effectively raised the rate of economic growth from 1.74 percent to 6.25 percent throughout his tenure. Despite being only 35 years old, Gibran Rakabuming Raka has successfully developed and improved the city of Surakarta via his commitment to honesty, moral integrity, and dedication to serving the people and the nation. (Source: Serambinews.com, 2023). The applicant's reliance on the legal position of their desire to become president, inspired by the Mayor of Surakarta, Gibran Rakabuming Raka, raises concerns about the applicant's legal standing in the constitutional testing of the provisions of Article 169 letter q of Law Number 7 Year 2017. The applicant's legal standing is deficient because they have not presented a

compelling constitutional argument, instead relying solely on their admiration for Gibran Rakabuming Raka, the Mayor of Surakarta. The applicant's explanation for their constitutional loss does not incorporate the additional criteria related to elected officials or positions they have presented. In other words, the applicant's constitutional loss is not pertinent to the petition and its objective.

Although the applicant is not of sufficient age to be eligible for a regional head post, they also do not currently occupy any position as a regional head or legislative member. Furthermore, they do not meet the qualifications to be a candidate for the presidential or vice-presidential positions. Although there are some legal standing concerns, the Constitutional Court remains convinced of the eligibility of the applicant in case Number 90/PUU-XXI/2023 and accepts their legal stance (Rio Subandri, 2024).

The author examines the criteria for legal standing in the United States, as determined by legal precedent. According to this law, the applicant's legal standing is not met unless they can demonstrate a genuine interest and legal protection. Three elements must be satisfied to establish standing to sue:

1. The existence of actual losses in a controversy, not just potential ones, resulting from the violation of the applicant's legally protected interests that are specific and special.
2. There must be a causal relationship or causality established between the loss and the enactment of a law.
3. There's a chance that an anticipated decision could prevent or reverse the loss (Rio Subandri, 2024).

In this scenario, if the applicant's position fails to meet these three criteria, according to American precedent, the applicant who lacks legal standing will acknowledge the Supreme Court's ruling declaring their application as inadmissible. Prior to conducting a thorough analysis of the case's merits, the judges of the Constitutional Court must first determine the legal standing of the applicant. However, in Indonesia, it is frequently required to provide evidence of legal status simultaneously with the examination of the subject matter. In the practice of law, the panel of judges allows the parties to question the legal standing of the applicant, even after examining the merits of the case. As a result, the Constitutional Court's decision may either grant, accept, or reject the applicant's application, which goes against the principle of certainty.

c. Analysis of the formation of a new norm in the Constitutional Court Decision Number 90/PUUXXI/2023

In the matter of 90/PUU-XXI/2023, the Constitutional Court ruled that the applicant's legal position was deemed fulfilled. Consequently, the application's testing of Article 169 letter q of Law Number 7 of 2017 about general elections was approved. The Chief Justice of the Constitutional Court, Anwar Usman, announced the ruling as follows: "The petition is partially granted." The Chief Justice of the Constitutional Court, Anwar Usman, argues that Article 169 letter q of Law Number 7 Year 2017 on General Elections, which states 'at least 40 (forty) years old', is in conflict with the 1945 Constitution of the Republic of Indonesia and lacks legal validity, unless it is interpreted as 'at least 40 (forty) years old or holds an elected position through general elections, including regional head elections'.

During its discussion, the court stated that the 1945 Constitution does not specifically address the age limit for candidates running for president and vice president. Nevertheless, it is customary in numerous nations for the President, Vice President, or head of state/government to designate individuals under the age of 40, considering their experiences during both the RIS period and the reform phase. Law Number 42 of 2008, concerning the General Elections of the President and Vice President, has stipulated that the president and vice president must be at least 35 years old. According to Article 5 letter O, candidates running for President and Vice President must be a minimum of 35 years old.

(<http://Perludem.org>, 2023)

The author contends that the Constitutional Court's ruling exceeds its legal authority by examining the validity of the 40-year age requirement. Prof. Dr. Muchamad Ali Safa'at, SH, a professor at Brawijaya University, stated that the addition of the line "or has / is currently holding a position obtained through general elections, including regional head elections" in the Constitutional Court's ruling was an anomaly. Jimli Asshiddiqie asserts that the Constitutional Court's jurisdiction is limited to nullifying norms, functioning as a legislative entity that focuses on negation rather than affirmation. The Constitutional Court is a judicial entity with the exclusive power to invalidate or uphold norms created by the DPR and the President, who serves as a proactive legislator. (www.hukumonline.com, 2023).

Based on the viewpoints, the authority and function of the Constitutional Court have undergone a transformation, shifting from the requirement of legal standing for applicants to a new mechanism for creating norms. This trend has given rise to multiple conjectures that the Court's moral compass and autonomy have been compromised because of the sway of vested interests and political factors, leading to rulings that lack careful consideration.

d. Analyse the public polemics and controversial opinions on the Constitutional Court Decision Number 90/PUU-XXI/2023, studied philosophically.

The public views the Constitutional Court's ruling as straying from its jurisdiction and standards due to its complex political subtleties and inclination to personally advocate for Gibran Rakabuming Raka. Despite the Constitutional Court's rejection of the age limit, individuals under the age of 40 are required to have previously held elected posts, such as those earned through Pilkada, according to the court's decision. Although the Constitutional Court did not directly show bias towards Jokowi's family, it plainly prioritised the interests of Gibran Rakabuming Raka by permitting those under the age of 40 to engage in political competitions. (www.hukumonline.com/klinik, 2023).

The Constitutional Court's ruling on the age restriction for presidential and vice-presidential candidates sparked diverse emotions throughout the community, leading to a series of rallies across different regions of Indonesia. The Indonesian Student Executive Board issued a statement on October 16, 2023, in front of the Constitutional Court building, expressing their refusal of the Constitutional Court's ruling. Melki Sedek Huang, the Chairman of BEM UI, asserted that the Constitutional Court's ruling was intrinsically linked to familial ties, dynastic politics, and was in violation of the constitution. The BEM All Indonesia will mobilise its resources by calling upon all students and advocates of democracy to participate in public demonstrations to express their opposition to the emergence of a new oligarchy that exploits the Constitutional Court to maintain their power. (kompas.com, 2023).

The Nusantara Student Executive Board (BEM) organised a protest at the Horse Statue location, located on Jalan Merdeka Barat, Gambir, Central Jakarta, DKI Jakarta, on October 18, 2023. Ahmad Supardi, the coordinator of the Nusantara Student Executive Board, believes that the Constitutional Court's ruling on the lawsuit on article 169 letter q of Law Number 7 of 2017 concerning Elections is a step towards establishing dynasty politics by judicial means. He claimed that the Constitutional Court, a separate entity, should prioritise the people's interests instead of being used as a political instrument by specific parties aiming to maintain their authority. BEM Nusantara submitted a formal complaint to the Constitutional Court during the current administration. (Refer to Liputan 6, the demonstration conducted by BEM Nusantara in response to the Constitutional Court's decision in 2023).

In addition, the Democracy Care Youth Alliance organised a protest to articulate their opposition to the Constitutional Court's ruling on the age restriction for presidential and vice-presidential candidates. The user's text is a single letter "T". The crowd emphasised their

opposition to the potential for dynastic politics in the 2024 elections, in response to a legal challenge filed on Article 169 letter q of Law Number 7 Year 2017, which concerns the age restriction for presidential and vice presidential candidates. According to the action coordinator Salim, dynastic politics undermines democratic principles by limiting opportunities for individuals who are not part of political families to enter political careers. The act of setting fire to tyres and motorised rickshaws in the centre of the road intensified the level of tension during this protest taking place beneath the flyover bridge. Tvoneneews.com, 2023

On November 20, 2023, advocates of Prabowo-Gibran, representing Indonesia Mapan, organised a protest in favour of the Constitutional Court's ruling in case Number 90/PUU-XII/2023. The rally took place in the Horse Statue area, Gambir, Central Jakarta. The masses asserted that the Constitutional Court's ruling on Article 169 letter q of Law No. 7/2017 did not infringe against the rights to recognition, guarantees, protection, and fair legal certainty. The decision is intended to provide young individuals with direct opportunity to compete in future elections. (Kompas.com, 2023).

The constitutional judges failed to achieve a unanimous verdict in Case Number 90/PUU-XXI/2023. Constitutional Judge Enny Nurbaningsi and Constitutional Judge Daniel Yusmic P. Foekh, both members of the nine-judge panel, held differing opinions over the verdict. They argued that a governor must possess either a minimum age of 40 or relevant experience, with the specific requirements to be determined by the legislator. In addition, four Constitutional Judges, namely Wahidin Adams (member), Saldi Isra (Vice Chairman), Arief Hidayat (member), and Suhartoyo (member), voiced their disagreement by refusing to accept the petition.

Ultimately, three Constitutional Judges, specifically Judge Anwar Usman (Chairman and concurrent member), Judge M. Guntur Hamah (member), and Judge Manahan M.P. Sitompul (member), agreed with the decision that an individual must be a minimum of 40 years old or hold a position that has been elected through general elections, including regional head elections. Constitutional Judge Saldi Isra characterised Decision 90/PUU-XXI/2023 as a noteworthy and atypical occurrence, noting that it strays considerably from the confines of logical reasoning. He claimed that the Court swiftly altered its position and demeanour. In Decisions 29/PUU-XXI/2023, 51/PUU-XXI/2023, and 55/PUU-XXI/2023, the Court explicitly clarified that the age mentioned in Law No. 7/2017, norm 169 letter q, holds significant importance. Saldi Isra suggests that, upon the applicant's request, the legislative review mechanism should implement the addition or modification of the rule stated in Article 169 letter q of Law No. 7/2017, as requested by the applicant. The Court should refrain from assuming the role of a "political burden" when making decisions. The year 2023 is referred to as "databoks".

Member judge Arief Hidayat pointed out some anomalies in the Consultative Meeting of Judges. In cases 29/PUU-XXI/2023, 51/PUU-XXI/2023, and 55/PUU-XXI/2023, the Chief Justice of the Constitutional Court, Anwar Usman, was absent. He claimed to avoid conflicts of interest because his relatives were potential candidates in the 2024 presidential election. However, in cases Number 90/PUU-XXI/2023 and Number 91/PUU-XXI/2023, which dealt with the same constitutional issue, the Chief Justice attended and participated in the discussions and decisions. In case Number 90/PUU-XXI/2023, the Chief Justice issued a "partially granted" ruling.

Legal scholars also voiced their opposition to the Constitutional Court's ruling on the age restriction for presidential and vice-presidential candidates. A total of 16 professors and lecturers specialising in constitutional law and state administration law have formally lodged a complaint against Chief Justice Anwar Usman of the Constitutional Court, accusing him of breaching the ethical standards and conduct expected of constitutional judges. The professors observed Anwar Usman, the Chief Justice of the Constitutional Court, to have a conflict of

interest in case 90/PUU-XXI/2023. If you, as a genuine statesman, acknowledge that you have violated the ethical norms and behaviour that are required of constitutional judges, as specified in Constitutional Court Regulation Number 9 of 2006.

The principle of impartiality, as outlined in point 5 letter b, dictates that constitutional judges must recuse themselves from a case if they are unable to remain unbiased due to personal interests or connections, unless it would result in a lack of quorum to proceed with the trial. It is evident that Anwar Usman's involvement in the assessment of cases, in his capacity as the Chairman of the Constitutional Court, not only breaches the ethical standards set for constitutional judges but also poses a risk to the independence, reputation, and credibility of the Constitutional Court. The website www.wartakotalive.com was created in 2023.

Several irregularities in the decision of the Constitutional Court in case Number 90/PUU-XII/2023 have sparked reactions and protests from various groups, including politicians, the general public, students, legal experts, and professors. This demonstrates that the decision's impact extends beyond politics. The irregularity arises from multiple factors, including the Constitutional Court's jurisdiction, the irregular acceptance of the applicant's legal standing, the prevailing political climate, the unanimous agreement among the Constitutional Judges during the Consultative Meeting of Judges, the Chief Judge's conflict of interest due to family ties, and the consideration of several atypical judges. We consider the Constitutional Court's decision in case 90/PUU-XXI/2023 to be unjust to society and potentially harmful. The empirical evidence of diverse public emotions and perspectives indicates that there is injustice for the general populace. As a result, many consider this decision to be in opposition to widely accepted norms.

e. Analysis of the Delinquency Philosophy of Constitutional Court Decision Number 90/PUU-XXI/2023

Delinquency refers to an act or behaviour that has strayed from established norms. The term "delinquent" pertains to behaviour that diverges from established and adhered social norms. Society acknowledges and adheres to fundamental principles, which are beneficial. When individuals exhibit behaviour that deviates from or contradicts the established norms and guidelines of society, they are referred to as "delinquent" (Siagian, 2015). Written norms in society might manifest as rules and laws, whereas the norms that society often recognises and employs as recommendations are ethical and moral norms. Society should establish ethics and morals as the fundamental basis for its interactions. An exemplary law is one that is founded upon ethical ideals. Moral values are derived and cultivated by society, analogous to the relationship between the body and its soul (Juanda, 2022). Hence, legality and morality are inherently interdependent and indivisible; they are indispensable to one another. For example, a person follows rules because they are legally obligated to do so, and this adherence reflects their moral and ethical viewpoint.

Unfortunately, the law enforcement procedure often disregards the true essence of the law, regarding it mainly as a technical and procedural matter. A significant number of individuals engage in unethical and immoral behaviour. Consequently, the law is transformed into a strategic instrument used to pursue triumph in conflicts rather than to defend justice, truth, and societal order. (Source: Mahfud, 2012).

Legally, the formal ruling of the Constitutional Court is ultimately conclusive and obligatory. Thus, it is imperative that all substance and content be enforced and adhered to in accordance with a legal framework that gives precedence to the rule of law. The necessary implementation of legal education involves the adoption of a constructive comprehension that shapes the legal system in our nation, as pioneered by John Austin's theory of Law is Command and Hans Kelsen's theory of Pure Law. (Mohtar, 2023).

The ruling of the Constitutional Court, which is filled with controversial arguments, requires implementation in the form of actual legislation. This is because proponents of

legism and legal positivism have excluded morality from the realm of law, resulting in a feeling of injustice within the population. All truth values, although viewed as good societal norms, are in fact associated with immoral and unethical actions that cause injustice to the larger community, even though the primary purpose of the law is to promote justice. John Rawls' theory of justice centres on the fundamental organisation of society. Rawls argues that society should prioritise justice and not compromise it, even if doing so may prevent more injustice. (Rawls, 2006).

Hence, the verdict of the Constitutional Court strays from moral principles, detrimentally impacting the nation's ethical standards and perception of fairness. This is because the decision is based on political and interest considerations, as well as the lack of impartial integrity of constitutional judges. Consequently, the ruling is ethically faulty, morally bankrupt, and does not conform to the fundamental principles of law or the essence of law. This defies the principles of legal axiology, which seek to establish certainty, justice, benefit, order, and welfare. It is clear in this instance that the decision of the Constitutional Court is founded on infringements and departures from moral principles, suggesting that it is not in accordance with the community's perception of fairness. The ruling of the Constitutional Court results in the establishment of a statute that clearly defines principles of ethics and morality.

CONCLUSION

The purpose of the Constitutional Court is to fulfil the obligation of upholding the rule of law, with a focus on the constitution as the highest criterion for maintaining a democratic legal system. The Constitutional Court's use of judicial power, as outlined in the 1945 Constitution and the Law on Judicial Power, is governed by the authority of "judicial review." This authority allows the Constitutional Court to analyse laws that have reached a final and binding conclusion. The role of the Constitutional Court in society The Constitutional Court occupies a pivotal role in the functioning of the state, earning it the moniker of the "Guardian of the Constitution." Individuals who believe that their constitutional rights have been infringed due to the presence of an arbitrary law that contradicts the 1945 Constitution can file a petition with the Constitutional Court to have the law invalidated. This demonstrates the Constitutional Court's authority to examine such matters, which serves as a means of ensuring the well-being of the society and providing tangible evidence of the rule of law (welfare state) in upholding that principle. The execution of this material examination must be conducted with utmost integrity, autonomy, and without any external influence, including "Conflict of Interest," as well as case number 90/PPUU-XXI/2023.

The Constitutional Court has a vital function in the country and government, as every decision it makes must reflect a notion of fairness and obtain genuine approval as a fair legal solution for all parties involved and the wider society. If the judges of the Constitutional Court adhere to and enforce the norms of independence and impartiality as outlined in the Constitutional Court Regulation, they will develop a just legal resolution, guaranteeing their personal and institutional autonomy from any external interference. Constitutional Judges with unimpeachable character, impartiality, and expertise in constitutional law and governance would establish the Constitutional Court as a respected and reliable judiciary, guaranteeing unbiased verdicts.

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