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CONSTITUTIONAL COURT RULING NUMBER 90/PUU-XXI/2023 REGARDING ASPECTS OF HUMAN RIGHTS

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Abstract

The aim of this research is to examine the Constitutional Court decision Number 90/PUU-XXI/2023 on aspects of human rights. This research uses a juridical-normative approach by examining the legal aspects of Constitutional Court Decision No. 90/PUU-XXI/2023 through a literature review. The focus of research here is on aspects of human rights (HAM) and power holders. In this case, the Constitutional Court's decision received public attention regarding the age limit for presidential and vice presidential candidates, giving rise to pros and cons in society. This literature review highlights the controversy over Constitutional Court Decision Number 90/PUU-XXI/2023 and analyzes the authority of the Constitutional Court in the context of human rights and power holders. The discussion involved the principle of separation of powers and the role of the Constitutional Court as a judicial institution. Although the Constitutional Court's decisions reflect constitutional interpretation, their impact on political and social dynamics shows the complexity of the relationship between law and social life. The results of this research show A careful and comprehensive analysis of the Constitutional Court's decision Number 90/PUU-XXI/2023 shows the complexity of the relationship between law, political decisions, and social life, as well as the importance of a deep understanding of the legal and constitutional context in evaluating the consequences of certain legal decisions.

Keywords: Constitutional court, human rights, power

Abstrak

Tujuan dari penelitian ini untuk mengkaji putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023 terhadap aspek hak asasi manusia. Penelitian ini menggunakan pendekatan yuridis-normatif, dengan mengkaji aspek hukum Putusan MK No. 90/PUU-XXI/2023 melalui kajian kepustakaan. fokus penelitian disini pada aspek hak asasi manusia (HAM) dan pemegang kekuasaan. Dalam hal ini putusan MK mendapat perhatian publik mengenai batasan usia capres dan cawapres menimbulkan pro dan kontra dalam masyarakat. Kajian literatur ini menyoroti kontroversi Putusan MK Nomor 90/PUU-XXI/2023 dan menganalisis kewenangan MK dalam konteks HAM dan pemegang kekuasaan. Diskusi melibatkan prinsip pemisahan kekuasaan dan peran MK sebagai lembaga yudikatif. Meskipun keputusan MK mencerminkan interpretasi

konstitusi, dampaknya pada dinamika politik dan sosial menunjukkan kompleksitas hubungan antara hukum dalam kehidupan bermasyarakat. Hasil penelitian ini menunjukkan analisis yang cermat dan komprehensif mengenai putusan MK Nomor 90/PUU-XXI/2023 memperlihatkan kompleksitas hubungan antara hukum, keputusan politik, dan kehidupan sosial, serta pentingnya pemahaman yang mendalam terhadap konteks hukum dan konstitusi dalam mengevaluasi konsekuensi dari keputusan hukum tertentu.

Kata kunci: Mahkamah konstitusi, HAM, kekuasaan

INTRODUCTION

The existence of the Constitution as the highest legal instrument in a modern country is a kind of collective agreement based on the idea of popular sovereignty, which originates from social agreement and functions as the foundation for the formation of a state to achieve common goals. The basic principles of state governance, the individual rights that must be upheld, and the structures established to carry out official functions are all outlined in the constitution. According to the idea of the social covenant, the state is established to serve the needs and interests of all citizens, that is, to uphold and preserve their rights and interests, which they cannot achieve on their own. (Asshiddiqie, 2021).

The constitution has a position as the highest law in national and state affairs because of the framework that holds that the constitution is the result of a collective agreement between all the people, and according to sovereignty theory, the people are the holders of the highest power. In fact, a constitution whose etymology comes from the verb "to constituent," which means "to form," can also be understood as a charter that forms the structure of the state. As a result, state officials and citizens are bound by the constitution (Anas & Budianto, 2023; Muhammad Saad, 2021).

The Constitution is not considered an independent legal document from the government's perspective. The concept of constitutionalism means that the idea of limiting authority is born from the abuse of power that has occurred throughout human history and is embodied in the constitution. Because there are no restrictions on the use of state power, which was originally intended to defend the rights of citizens, this power is often misused for the benefit of the authorities by oppressing society. (Harman, 2013).

Therefore, power must be limited because if there are no restrictions, then state power will undoubtedly be misused. As a form of constitutionalism that holds the view that authority must be limited so that the state can carry out government in accordance with the objectives of establishing the state itself, a constitution is needed to limit government power. According to this perspective, the constitution functions as a check on authority. As a result, a constitution that does not limit power will lose its essence and will only justify unchecked state power.

Indonesia is a democratic and constitutional country based on law, namely, a democratic country based on law and the constitution. In Article 1, paragraphs (2) and (3), the 1945 Constitution takes this matter into consideration. "Sovereignty is in the hands of the people and is implemented according to the Constitution," reads Article 1 paragraph (2) of the 1945 Constitution. Article 1, paragraph 3, of the 1945 Constitution states that "the State of Indonesia is a state of law." As a country whose constitution is the highest law, Indonesia requires the state to provide mechanisms that guarantee the implementation of the provisions of the Constitution in the practice of social, national, and state life.

The 1945 Constitution as the country's legal basis underwent four amendments, and these amendments ushered in important changes in the Indonesian constitutional system. These changes include the institutional system and relationships between the three main branches of state power (legislative, executive, and judicial), regional government systems, more detailed regulations that guarantee the protection of human rights (HAM), and various systems in state administration (generally elections, education, culture, economy, welfare, and social security) (Fadjar, 2006).

A constitution usually consists of two separate parts: formal and material components. The formal part includes regulations relating to state institutions or bodies as well as the main structural principles of the state, including the division of power and form of government. The principles, goals, and objectives of the state, as well as human rights, are contained in the substance of the constitution (Saifulloh, 2022).

These two parts basically form the 1945 Constitution. The founding fathers envisioned an ideal version of Indonesia as a country based on law, or *rechtsstaat*. The General Explanation of the 1945 Constitution contains an affirmation of Indonesia as a country based on law. In fact, this concept was clarified in Article 1 Paragraph 3 of the 1945 Constitution, which states that "the Indonesian state is a state of law," during the revision process (1999–2002) (Isra, 2016).

Article 24C paragraph (1) of the 1945 Constitution gives the Constitutional Court the authority to adjudicate at the first and last level, whose decision is final, to review laws against the Constitution, decide disputes over the authority of state institutions whose authority is granted by the Constitution, decide the dissolution of political parties, and decide disputes about the results of general elections. The Constitutional Court is a state institution in the judicial branch of power that has this authority. Judicial review, or reviewing decisions made by legislative or executive institutions, is one of the functions and authorities of the Constitutional Court in carrying out its judicial jurisdiction. (Kariadi, 2020)

One of the principles governing the judicial process of the Constitutional Court is independence and impartiality, which states that a case must be examined and decided fairly while maintaining objectivity. This principle is specific to the Constitutional Court judiciary and does not apply generally to other courts. Judges and institutions must be unbiased and independent, meaning that no institution or interest can interfere

or take sides in the court process. There are three aspects to independence and impartiality: structural, personal, and functional. According to the functional dimension, any party or other state entity is prohibited from having influence or involvement in investigating, making decisions, and adjudicating a case. Impartiality and independence from the personal and structural dimensions of judges are needed to support the functional dimension. For judicial institutions to function impartially and without external influence, they must also be structurally autonomous and impartial to the extent necessary. On the other hand, judges have personal independence based on qualifications, responsibility, and adherence to the law and ethical standards (Subandri, 2023).

Recently, the Constitutional Court (MK) has become a hot topic of conversation. As the deadline for registering presidential and vice presidential candidates drew near, the public was astounded by the contentious Constitutional Court (MK) decision number 90/PUU-XXI/2023 regarding the age limit for presidential and vice presidential candidates. The MK decided that regional heads who have served or are currently serving as regional heads can run for president or vice president if they are under 40 years old. This decision, which is a response to JR Law Number 7 of 2017 concerning elections and age restrictions for presidential and vice presidential candidates, was delivered by Almas Tsaqibbirru, a student at Sebelas Maret University (UNS) (Andi Muh. Taqiyuddin BN, 2023).

Reviewing laws that conflict with the 1945 Constitution is one of the duties of the Constitutional Court. This has just been done by the Constitutional Court in Decision Number 90/PUU-XXI concerning age limits for presidential and vice presidential candidates. Of course, there are many benefits and losses in society as a result of the Constitutional Court's decision, which was made just before the deadline for registering presidential and vice presidential candidates. It seems that the Constitutional Court, which should be able to weigh political interests impartially, is actually interested in these interests (E. J. Sarkol, 2015).

Therefore, based on the controversy caused by the Constitutional Court decision, the author will conduct a literature review regarding the legal analysis of Constitutional Court Decision Number 90/PUU-XXI/2023 concerning age limits for presidential and vice presidential candidates. Based on the results of the description above, the author wants to examine the issue regarding the Constitutional Court's decision from the perspective of human rights and authority in carrying out government duties.

METHOD

The normative juridical approach is the research methodology used in this research. This approach is described as a scientific assessment process that examines theories, conceptions, legal principles, rules, and regulations related to this research to find facts based on the logic of legal science, namely based on norms. (Hadi et al., 2021) The strategy carried out by reviewing books, laws, regulations, and other documents related

to this research is also called a bibliographic approach. Legal materials, both primary and secondary, are used as data sources in this research. Principles, laws, and regulations are examples of primary legal documents, or legally binding documents. The embodiment of these legal principles and rules can be in the form of basic legal provisions, constitutional conventions, statutory regulations, court decisions, or state government decisions. Information obtained from legitimate sources is classified and then analyzed qualitatively, namely by describing documents qualitatively in effective sequences, systems, logic, and sentences, which are useful for interpreting, providing information, and understanding the results of the analysis.

RESULTS AND DISCUSSION

1. Authority of the Constitutional Court Based on Legislation

An independent judiciary is a component of efforts to guarantee freedom and avoid arbitrariness in all government institutions, as seen from the perspective of the separation of powers. State power seeks to guarantee and maintain people's freedom from possible arbitrary actions by the government; in other words, an independent judiciary is independent of this influence. Separation of powers no longer determines the existence of an independent judiciary but is a "sine quanon condition" for maintaining the supremacy of law, which guarantees freedom and control over power. (Rumadan, 2017, p. 69)

Article 24 paragraphs (1) and (2) of the 1945 Constitution explain the duties of the Constitutional Court in language relating to the authority and obligations of the Constitutional Court. (Rasyid Talib, 2018, p. 18) Article 10 paragraph 1 of Law Number 24 of 2003 concerning the Constitutional Court then emphasizes some of the MK's authorities by explaining that the MK can adjudicate at the first and last level, which is the final stage for reviewing laws towards the 1945 Constitution. (Maulidi, 2017, p. 535) Furthermore, the 1945 Constitution gives the Constitutional Court the authority to decide disputes over the authority of state institutions; after that, the Constitutional Court can decide on cases regarding the dissolution of political parties; and finally, the Constitutional Court can decide on general election cases. Meanwhile, the task of the Constitutional Court is to provide a decision on the opinion of the House of Representatives regarding alleged constitutional violations by the President and/or Vice President. (Johansyah, 2019, p. 94)

Law Number 8 of 2011 concerning Amendments to the Law concerning the Constitutional Court, which is often known as UUPUUMK, regulates the authority of the Constitutional Court (Kurniawati & Liany, 2019 p. 112). The Constitutional Court Law says that one of its jobs is to decide on specific constitutional cases to make sure that the document is followed properly, in line with the will of the people, and upholding democratic ideals. This is in contrast to the constitutional experience that came about because of different interpretations of the document. As a legal court, the Constitutional Court has the authority to substantively and formally compare legislative standards with the Constitution. The Constitutional Court makes decisions and reviews

based on requests for formal review under Article 51A of the UUMK Amendment Law. These reviews are based on statutory regulations that explain how statutory regulations are made. Articles 50 to 60 of the Constitutional Court Law, the Law on Amendments to the UUMK, and Constitutional Court Regulation Number 06/PMK/2005 concerning Procedural Guidelines in Legal Review Cases all regulate judicial review under the Constitutional Court's procedural law. (Sihan, 2022)

Human life and liberty are subject to arbitrary control when judicial power and legislative power are united, but when judicial power and executive power are combined, judges have unlimited authority to act oppressively and arbitrarily. Therefore, from the perspective of the division of powers, to guarantee freedom and avoid arbitrariness, autonomous courts are needed. (Asro, 2017, p. 152)

The authority of the Constitutional Court, according to Article 24C paragraphs 1 and 2, is to decide at the first and last level, which is final, to review laws against the Constitution and supervise the authority of state institutions granted by the Constitution (Febriansyah & Prayitno, 2023, p. 31). Decide on the dissolution of political parties in accordance with the Constitution and decide disputes regarding the results of general elections (1945 Constitution). Apart from that, the Constitutional Court is also obliged to provide a decision on the President's opinion regarding violations of the Constitution complained of by the President and/or Vice President. The President and/or Vice President can also ask the Constitutional Court to provide a decision on the President's interpretation of constitutional violations. With this authority, it is clear that the Constitutional Court collaborates with all state institutions, especially when an institution requests a judicial review from the Constitutional Court or when there is a conflict between state institutions.

Legal regulatory audits can be divided according to who carries out the audit, according to the subject matter of the regulations being examined, and according to the audit period. From the perspective of the examining body, judges, legislative bodies, or executive authorities can conduct examinations. Examination of the legislative institution is carried out as an institution that drafts, advises, and approves laws (in collaboration with the President); examination of the executive institution is carried out based on legal provisions developed by the executive institution. (Agustine, 2018, p. 642)

Sri Soemantri and Harun Alrasid provide a definition of formal review in accordance with Constitutional Court Law Number 24 of 2003. According to Sri Soemantri, the authority to determine whether a statutory regulation, for example, a law, has been implemented in accordance with the procedures outlined in the relevant legislation constitutes the right of formal review. According to Harun Alrasid, the right to review material is based on the legislative power to determine whether the content of a statutory regulation conflicts with higher statutory regulations or not. (Anwar & Shafira, 2022, p. 99)

Thus, one of its responsibilities is to spot unconstitutional clauses. Do the rights guaranteed by the constitution conflict with the law? The constitutional control system

has two main functions. First and foremost, ensuring that the democratic system operates with a balance of power or interaction among the legislative, executive, and judicial branches. In other words, the goal of constitutional revision is to stop each branch of government from abusing its authority. Second, protect every individual from abuse of authority by state agencies that violate their basic rights protected by the constitution. (Ali, 2022)

2. Constitutional Court Decision Number 90/PUU-XXI/2023 Concerning Age Limits for Presidential and Vice-Presidential Candidates on Human Rights Aspects

The Indonesian nation has a long history of awareness of human rights. The knowledge that Indonesia is a nation equal to other nations and that colonialism is a real violation of human rights became another basis for the independence movement. Rejecting oppression and colonialism was reflected in the decision to become an independent country. Clearly, the Preamble to the 1945 Constitution states that every nation has the right to independence and that the creation of a state is intended to serve a number of purposes, including the defense of the nation as a whole and all its citizens and the promotion of international peace. (Nurfazriah Putri et al., 2023, p. 173)

According to Moh. Mahfud, MD, the framers of the 1945 Constitution placed human rights as very important in the debate that produced the 1945 Constitution. The debate that some experts call the debate between individualism and collectivism, or between the concepts of a liberal state and an integralistic state, is not about whether the state will be established to protect and promote human rights or not, but rather whether provisions regarding human rights need to be formulated in detail. (Hosein, 2016, p. 503)

Moh. Mahfud stated that the debate that took place highlighted two important things. First, the discussion that took place had nothing to do with the question of whether a state could or could not hamper human rights or regarding the role of the state in protecting and enhancing human rights. The difference only lies in whether the guarantee of protection needs to be explained in depth and detail. Everyone agrees that the goal of a state is to protect and defend its sovereignty and that it is impossible to commit or permit interference with its sovereignty. The basic debate between Moh. Yamin and Moh. Hatta is that the constitutional guarantee of human rights protection must be written both as a limitation of state authority and as an affirmation to ensure that human rights are not violated. However, Soekarno and Soepomo said that because the newly formed state was not in conflict with its own population, there was no need to provide protection for human rights. The state cannot and should not violate the rights of its citizens because this is an expression of their own will. (El-Muhtaj, 2017)

Because they do not have a philosophical basis and are not common in the context of the relationship between states and individuals, which is the basis of human rights concepts and theories, the fundamental obligations contained in these laws and regulations are not recognized in international human rights theory. This was undoubtedly a byproduct of the rejection of the idea that human rights were universal

because it was considered anti-social or contrary to the sense of collectivity of Eastern peoples. (Marzuki, 2013, p. 189)

The judges' panel declared that the internal dimension (forum internum) of religious freedom, or the internal aspect of freedom, is an unalienable right that the state cannot violate. This statement relates to discussions between internal forums and extraneous forums. However, on a different occasion, the panel closed the discussion by stating that the main religious doctrines must remain the basis for freedom of interpretation in the internal dimension (forum internum). (Safa'at et al., 2022) The following considerations demonstrate this point of view:

Belief in something can be gained through interpretation, which has the ability to lead to truth or error. Freedom to interpret a religion is not absolute, although this includes the freedom to believe in religious teachings. However, for an interpretation to be considered absolute, it must adhere to religious principles through a proper methodology based on relevant scriptures.

To support their position, the judges cited International Covenant on Civil and Political Rights Article 18(3). The article reads: "The freedom to manifest one's religion or beliefs may only be limited by conditions established by law and which are necessary to protect the safety, order, health, or morals of society, or the fundamental rights and freedoms of others." The use of the word "practice" in this case raises significant concerns about religious freedom issues because it suggests that what constitutes "practice" of a religion or belief can be restricted. Only the practical dimension, namely the outward expression in an effort to practice religion, namely the extratum forum dimension, can be limited. It is not appropriate to use this article to support restrictions on the internal dimension (forum internum). (Marzuki, 2019, p. 215)

The Constitutional Court (MK), as interpreted by the Constitutional Court in Decision Number 90/PUU-XXI/2023, postponed the implementation of the minimum age limit for presidential and vice presidential candidates, according to Constitutional Law Expert Denny Indrayana. This is related to the material review of Article 169 letter q of Law Number 7 of 2017 concerning General Elections (Election Law), which is requested in the provisions of Case Number 145/PUU-XXI/2023. He said, "So it doesn't take effect from the moment the decision is read. Why is that? Because that's what we feel is important, and one of the aims of this petition is to restore our constitutional morality."

According to the former Deputy Minister of Law and Human Rights (HAM), it is challenging to implement the minimum age requirements for vice presidential candidates as stated in Constitutional Court Decision Number 90/PUU-XXI/2023. The reason is that there are several candidates who do not meet the requirements, but after the decision, they are eligible to run as presidential candidates (capres) in 2024.

Furthermore, the petitioner requested that the Constitutional Court stop all processes or regulations relating to Article 169, letter q, of the Election Law. Then, he asked the Constitutional Court to immediately examine his petition, not to ask for information from the President, DPR, MPR, DPD, or other related parties, and not to include

Constitutional Justice Anwar Usman in the examination, trial, or decision-making process for Case Number 145/PUU-XXI/2023.

Meanwhile, in the main petition, the petitioners stated that the 1945 Constitution (UUD) was violated, the formation of Article 169 letter q of the Election Law did not meet the formal requirements based on Law Number 48 of 2009 concerning Judicial Power, and it did not have binding legal force. So that this decision can be implemented without delaying the implementation of the 2024 general election, the petitioners further request that the Constitutional Court order the election organizers to drop legislative candidates who apply for registration based on Article 169 letter q of the Election Law, which has been declared to have no binding legal force, or set a special additional agenda for legislative candidates. affected parties to nominate replacement legislative candidates.

Zainal Arifin Mochtar, an expert in constitutional law from Gadjah Mada University (UGM), is also an expert witness in Case Number 145/PUU-XXI/2023. According to him, the Constitutional Court plays two roles in legislation: positive legislation and negative legislation. Negative legislation refers to a legal provision that the Constitutional Court finds to be in conflict with the 1945 Constitution. On the other hand, positive legislation occurs when the Constitutional Court establishes new norms and declares existing norms unconstitutional. This is done by interpreting the articles or verses of the particular law being tested.

How the Court positions itself in relation to the idea of judicial activism. Judicial restraint is one issue that must be thoroughly investigated. Judicial activism is the MK's desire to be more active, including entering new areas to uphold law and justice, while judicial restriction is the MK's desire to be more careful and only enforce existing laws.

3. Constitutional Court Decision Number 90/PUU-XXI/2023 Concerning Age Limits for Presidential and Vice-Presidential Candidates on Power Holder Aspects

Since Aristotle's time, philosophers have expressed the concept of the division of power, which John Locke and Montesquie later developed. The Commonwealth's legislative, executive, and federal powers are classified according to John Locke's separation of powers. (Safudin, 2020, p. 147)

According to John Locke, the legislature is the highest authority in a state, an institution elected and appointed by the people with the capacity to make laws. The legislative branch does not need to operate from a permanent office. The reason is that this is not a routine government task, and if someone holds the position for a long period of time, there may be an imbalance of power. (Adiwilaga et al., 2018)

From the perspective of separation of powers theory, the Constitutional Court's decision is considered to violate the authority of the norm-makers, namely the legislature. Although the Constitutional Court believes that *open legal policy* can be set aside in cases of violations of the principles of morality, rationality, and intolerable injustice, this view is considered to be inconsistent with the Trias Politica principle, which emphasizes a strict separation between legislative, executive, and judicial powers.

The legal system in Indonesia continues to demonstrate ongoing injustice in the eyes of the law. The fact that corruption is the most prevalent form of authority abuse in Indonesia serves as evidence of this. Based on research called 'Global Corruption Barometer-Asia' by Transparency International, a global corruption index monitoring organization, Indonesia is in third place as the most corrupt country in Asia. Cambodia is in second place, with India in first. According to Jerry Massie, a researcher at Political and Public Policy Studies, this occurs as a result of weak punishment in Indonesia. In addition, he said, political parties operate a "political dowry" system, and regulations relating to corruption often change.

There is no separation between society and the law. The law is used to achieve justice, order, and legal certainty; therefore, there are no activities carried out by the community that violate the law. The difficulty of navigating the legal system in contemporary society is becoming increasingly apparent, especially as we move into a more global and modern world.

The legal reality in Indonesia shows that there is still an imbalance of justice in the eyes of the law related to abuse of authority (*detournement de pouvoir*) by public officials, both for their own interests and group interests, which is detrimental to many parties and the state. Since the development of corrupt individuals, especially those in positions of authority, is a concern in this regard, social awareness is needed to combat corrupt activities by enlisting the help of all available resources, including law enforcement personnel, bureaucrats, and members of the public. Modifications must be made using formal legal, criminological, and sociological processes. (Juhaeni, 2021, p. 41)

Legally, the Constitutional Court has limited ability to cancel, reject, or partially grant requests, so it cannot change the text of the law (Wada et al., 2023, p. 1). However, the Constitutional Court is not permitted to change the law at a later date. It is true that there is no conflict between the 1945 Constitution and the dissenting opinion decision regarding the assumptions of the Open Law Policy in relation to Law No. 7 of 2017 (Kurniawan et al., 2023, p. 192). The public needs to question the DPR and find out why the age of 40 was raised and what the scientific reasons are. If there is a cultural foundation, then that foundation must be articulated thoroughly and historically. However, we must also recognize that logic must take precedence over culture when laws are created, because justice and logic are explicable constants and do not give rise to sharp disagreements of perception. (Kleden, 2004) Without clarification, the debate regarding age restrictions could actually open the door to further constitutional violations. The reason for this violation is that every Indonesian citizen has the constitutional right to run for president and vice president. If there is a more pressing national interest, this right may be suspended. However, this can be classified as a constitutional violation if it turns out that there is no reason that can justify the suspension of voting rights.

Therefore, the number of cases of abuse of authority (*detournement de pouvoir*), whether partial power or abuse in other forms, is not small; it is necessary as an effort to enforce the law and protect various interests in society, especially within the scope of

society, so that this does not happen. an abuse of interest and authority. There is a need to limit the authority of the Constitutional Court as *a positive legislator*. A balance between legislative and judicial powers needs to be maintained to prevent abuse of authority.

CONCLUSION

In discussing the authority of the Constitutional Court, it can be seen how this institution plays a role in monitoring and upholding the supremacy of the constitution, playing an important role in determining whether laws are in line with the constitution. It was also highlighted how the Constitutional Court's decision had direct implications for political contestation and its effect on the general election process. The analysis presented regarding human rights aspects is also interesting, especially in linking the Constitutional Court's decision to limiting the age of presidential and vice presidential candidates, showing how human rights arguments are integrated in the context of legal decisions. It is also important to note how the separation of powers is the main basis for maintaining balance between government institutions and preventing abuse of power. However, the debate surrounding the Constitutional Court's decision shows the importance of clarification and clearer interpretation in the context of the application of law in society, especially when the decision has a significant impact on the political process and community life. A careful and comprehensive analysis of the Constitutional Court's decision Number 90/PUU-XXI/2023 shows the complexity of the relationship between law, political decisions and social life, as well as the importance of a deep understanding of the legal and constitutional context in evaluating the consequences of certain legal decisions.

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