

# **The Age Threshold for Presidential Nominations in the Perspective of Dignified Justice Theory: Why is there a Court of Family (*Mahkamah Keluarga*) Issue?**

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## **Abstract**

*The constitutional court's decision regarding the age limit for nominations for president and vice president has caused problems in society, one of which is related to the issue of the existence of a family court. this issue arises because juridically there is a logical inconsistency in the Constitutional Court's decision regarding the age limit for nominations for president and vice president and related to the nomination of the president's children to contest the presidential and vice-presidential elections in the 2024 election. this research aims to analyze aspects of the age threshold for presidential candidacy and the vice president reviewed the theory of dignified justice along with an analysis of the family court issue as a result of the Constitutional Court's decision. this research is normative legal research which also orientates socio-legal aspects to assess the impact of a Constitutional Court decision. the approach used is a conceptual and statutory approach. the research results confirm that the enigma of the age threshold for presidential candidacy in the perspective of the theory of dignified justice occurs because the Constitutional Court has gone beyond the open legal policy conception where the age threshold for presidential and vice-presidential candidacy is actually the domain of the legislative institution as in the open legal policy conception. judging from the theory of dignified justice, the enigma of the age threshold for presidential candidacy also occurs because the Constitutional Court failed to construct the dimensions of social justice as envisioned in the formulation of Pancasila. Constitutional Court decision on the age of the president and vice president as part of a legal product certainly has social, political and legal impacts on society. issues related to the family court should be addressed wisely by the Constitutional Court because these issues exist as a form of public concern for the dignity of the constitutional court as an institution that protects the constitution.*

**Keywords: Dignified Justice; Constitutional Court Decision; Requirements for the President and Vice President.**

## **1. INTRODUCTION**

The age threshold for candidates for President and Vice President has become a phenomenal debate in society. This debate occurred because there were efforts to change the minimum age requirements for the President and Vice President as regulated in Article 169 letter q of Law Number 7 of 2017 concerning General Elections (*hereinafter referred to as Election Law*). In Article 169 letter q of the Election Law, the minimum age for candidates for President and Vice President

is set at 40 years. The formulation of Article 169 letter q of the Election Law actually confirms that under the age of 40 a person cannot nominate himself as President and Vice President in the general election (*Pemilu*).<sup>1</sup> This debate increasingly shows its political orientation when there is an attempt to make President Joko Widodo's son, Gibran Rakabumi, who currently serves as Mayor of Solo, become Vice President.<sup>2</sup> This issue became even more interesting when the Constitutional Court was chaired by President Joko Widodo's brother-in-law who is also Gibran Rakabumi's uncle.<sup>3</sup>

The above means that the review of Article 169 letter q of the Election Law is vulnerable to "kinship" elements if the constitutional court does not provide a careful and precise decision. Exactly on Monday, October 16 2023, the constitutional court through Decision No. 90/PUU-XXI/2023 (hereinafter referred to as constitutional court Decision on the Age of the President and Vice President) confirms the revision of the provisions of Article 169 letter q about the President and Vice President requirement in general election.<sup>4</sup> Through the Constitutional Court Decision on the Age of the President and Vice President, the Constitutional Court emphasized that candidates for President and Vice President can be at least 40 years old or have/are currently holding positions elected through elections including regional head elections. Substantially, the Constitutional Court's Decision on the Age of President and Vice President confirms that apart from being at least 40 years old, the requirements for candidates for President and Vice President are that they can be under 40 years of age as long as they have experience, namely currently or have held public office elected through general elections, such as: being a member of the DPR, DPD, as well as being or having been a regional head at either the provincial or district/city level.

In essence, Constitutional Court Decision on the Age of the President and Vice President is intended to emphasize the position of the young generation under 40 years of age in getting the opportunity to become candidates for President and Vice President of Indonesia. Apart from the ideals of Constitutional Court Decision on the Age of the President and Vice President, the problems of the Constitutional Court's Decision also increasingly emerged when Constitutional Court Decision on the Age of the President and Vice President received strong criticism from the public. This criticism occurred when Constitutional Court Decision on the Age of the President and Vice President was deemed inconsistent in placing the logic of open legal policy and instead positioned the Constitutional Court to change and make laws like the legislative body. Apart from that, viewed from a political aspect, Constitutional Court Decision on the Age of the

<sup>1</sup> Admin Polpum, "Mahkamah Konstitusi: Putusan Batas Usia Capres/Cawapres Berlaku Di Pilpres 2024" (polpum.kemendagri.go.id, 2023), [https://polpum.kemendagri.go.id/CONSTITUTIONAL\\_COURT-putusan-batas-usia-capres-cawapres-berlaku-di-pilpres-2024/](https://polpum.kemendagri.go.id/CONSTITUTIONAL_COURT-putusan-batas-usia-capres-cawapres-berlaku-di-pilpres-2024/) (sed On Date 20 Oktober 2023).

<sup>2</sup> Inten Esti Pratiwi Alinda Hardiantoro, "Perjalanan Karier Politik Gibran, Dua Tahun Wali Kota Solo Lalu Melesat Jadi Cawapres" (www.kompas.com, 2023), <https://www.kompas.com/tren/read/2023/10/23/101500865/perjalanan-karier-politik-gibran-dua-tahun-wali-kota-solo-lalu-melesat-jadi?page=all> (sed On Date 22 Oktober 2023).

<sup>3</sup> Fitria Chusna Farisa, "Profil Anwar Usman, Adik Ipar Jokowi Yang Terpilih Kembali Jadi Ketua Mahkamah Konstitusi" (indeks.kompas.com, 2023), <https://indeks.kompas.com/profile/1644/Fitria.Chusna.Farisa> (sed On Date 21 Oktober 2023).

<sup>4</sup> Pusako Perludem, ICW, Netgrit, KontraS, P2P BRIN, "Tafsir Serampangan, Inkonsistensi Logika, Dan Konflik Kepentingan Mahkamah Konstitusi Dalam Putusan No.90/PUU-XXI/2023" (perludem.org, 2023), <https://perludem.org/2023/10/17/tafsir-serampangan-inkonsistensi-logika-dan-konflik-kepentingan-mahkamah-konstitusi-dalam-putusan-no-90-puu-xxi-2023/> (sed On Date 21 Oktober 2023).

President and Vice President is also considered to be a form of nepotism based on the Family Court (*Mahkamah Keluarga*) in which the Constitutional Court's decision on the age of the President and Vice President is considered a decision that facilitates the candidacy of Gibran Rakabumi to run as a candidate for President and Vice President in the 2024 election. The term "Family Court" which is abbreviated as "Constitutional Court" is actually a form of "criticism", "satire", and "cynicism" at the Constitutional Court institution which, apart from being chaired by Uncle Gibran Rakabumi, is one of the parties related to the Constitutional Court Decision. The President and Vice President are also President Joko Widodo's brothers-in-law, which according to some observers calls the neutrality and independence of the Constitutional Court into question.<sup>5</sup>

The assumption that the "Family Court" is related to the Constitutional Court's decision on the ages of the President and Vice President is understandable considering that the Chief Justice of the Constitutional Court is Gibran Rakabumi's uncle, so indications of nepotism are a general suspicion in society. This suspicion arose when Constitutional Court Decision on the Age of the President and Vice President was not unanimously decided by 9 judges, but there were 4 dissenting opinions and 2 concurring opinions. In fact, in particular the dissenting opinion expressed by Constitutional Justice Saldi Isra who was "surprised" by the dynamics and constellation of Constitutional Court Decision on the Age of the President and Vice President also increasingly shows that Constitutional Court Decision on the Age of the President and Vice President is actually problematic.

This research attempts to analyze the enigma or lack of clarity regarding the age threshold for Presidential and Vice Presidential candidates by referring to the Constitutional Court Decision on the Age of the President and Vice President, especially looking at the social and legal impact of this decision which has resulted in a public stigma regarding the "Family Court". Apart from that, to optimize the analysis regarding the age threshold for Presidential and Vice Presidential candidates by referring to Constitutional Court Decision on the Age of the President and Vice President, an analytical knife in the form of the theory of dignified justice was used. This research aims to answer two problems, namely: the enigma or lack of clarity regarding the age threshold for Presidential and Vice Presidential candidates by referring to the Constitutional Court Decision. The Age of the President and Vice President is viewed from the theory of dignified justice as well as the social and legal impact of the Constitutional Court Decision. The age of the President and Vice President is specifically related to with the issue of "Family Court".

Similar research discussing elections, especially the various dynamics in the Presidential and Vice Presidential elections, was actually carried out by three previous researchers, namely: first, research conducted by Satriawan and Lailam (2019) which analyzed the concept of open legal policy in the Constitutional Court Decision. The novelty of research by Satriawan and Lailam (2019) is that the concept of open legal policy is often used by the Constitutional Court to test various legal policies related to

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<sup>5</sup> Imam Yunni, "Resmi Jadi Mahkamah Keluarga" (koran.tempco.co, 2023), <https://koran.tempco.co/read/editorial/485052/mahkamah-konstitus-menjadi-mahkamah-keluarga> (Accessed On Date 22<sup>nd</sup> October 2023).

election-related prerequisites.<sup>6</sup> Second, further research was conducted by Maharani, et al. (2022) which discusses the abolition of the term of office of Constitutional Court Judges to uphold the independence of the Constitutional Court. The novelty of Maharani, et al.'s research. (2022), namely that the Constitutional Court's independence is needed, especially by reducing the Constitutional Court's dependence on legislative institutions, especially regarding limits related to the Constitutional Court's term of office. Third, research conducted by Ali, et al. (2023) which discusses the progressive legal orientation in Constitutional Court Decisions.<sup>7</sup> The novelty in this research is that the progressive legal orientation is often used by the Constitutional Court to decide on difficult cases (hard cases), especially legal considerations related to open legal policies which generally occur in reviewing Election Laws.

Of the three previous studies above, the research specifically discusses the enigma or lack of clarity regarding the age threshold for Presidential and Vice Presidential candidates with reference to Constitutional Court Decision on the Age of the President and Vice President, specifically looking at the social and legal impact of this decision which results in public stigma. regarding the "Family Court" which uses the analysis of the theory of dignified justice has never been carried out by previous researchers. Therefore, this research is original research.

This research, which discusses the enigma or lack of clarity regarding the age threshold for Presidential and Vice Presidential candidates by referring to the Constitutional Court Decision on the Age of Presidents and Vice Presidents, is normative legal research that also prioritizes socio-legal aspects.<sup>8</sup> The socio-legal aspect in this case complements normative legal research by analyzing the social and legal impact of the Constitutional Court's decision. The age of the President and Vice President is particularly associated with the stigma of the "Family Court". The primary legal materials in this research are: the 1945 Constitution of the Republic of Indonesia, Constitutional Court Decision on the Age of the President and Vice President, and the Election Law. Secondary legal materials are journal articles, books, websites, as well as research results that discuss social and legal aspects related to the Constitutional Court and the ages of the President and Vice President. The approach used in this research prioritizes conceptual and statutory approaches.

## 2. ANALYSIS AND DISCUSSION

### 2.1. The Enigma of the Age Threshold for Presidential Nominations from the Perspective of Dignified Justice Theory

The age threshold for candidacy for President and Vice President is actually one of the important requirements related to the leadership of a country. This is especially

<sup>6</sup> Iwan Satriawan and Tanto Lailam, "Open Legal Policy Dalam Putusan Mahkamah Konstitusi Dan Pembentukan Undang-Undang," *Jurnal Konstitusi* 16, no. 3 (October 2019): 559, <https://doi.org/10.31078/jk1636>.

<sup>7</sup> Muhammad Zulfa Aulia et al., "The Use of Progressive Law Phrase in Constitutional Court Decisions: Context, Meaning, and Implication," *Jurnal Konstitusi* 20, no. 3 (2023): 423–50, <https://doi.org/10.31078/jk3034>.

<sup>8</sup> Irwansyah, *Penelitian Hukum: Pilihan Metode Dan Praktik Penulisan Artikel*, 3rd ed. (Yogyakarta: Mira Buana Media, 2020). Mengenai aspek *socio-legal* dilihat dalam Fachrizal Afandi, "Penelitian Hukum Interdisipliner Reza Banakar: Urgensi Dan Desain Penelitian Sosio-Legal," *Undang: Jurnal Hukum* 5, no. 1 (2022): 240.

true in countries with a presidential system which mandates a definite term of office for the President and Vice President (*fixed term*).<sup>9</sup> Even though the age threshold for candidacy for President and Vice President is an important aspect in a country, it is rarely formulated explicitly in a country's constitution. The age threshold for nominations for President and Vice President is generally left to the law as a legal product of the legislative body which emphasizes that the regulation regarding the age threshold for candidacy for President and Vice President is an open legal policy that is determined entirely by the legislative body.<sup>10</sup>

The age threshold for candidacy for President and Vice President cannot be separated from the concept of open legal policy. In short, the concept of open legal policy is a concept where a legal provision is an open option that is determined through the legislative process.<sup>11</sup> This means that the concept of open law policy does not actually question the constitutionality or not of a provision in the law. One of the main characteristics of the concept of open legal policy in the Indonesian constitution, namely the 1945 NRI Constitution, is that there are no specific requirements in the 1945 NRI Constitution.<sup>12</sup> One example of this can be seen in the age threshold provisions for nominations for President and Vice President. In Article 6A paragraph (5) of the 1945 Constitution of the Republic of Indonesia, it is actually emphasized that further provisions regarding the regulation of the requirements of the President and Vice President are further regulated in law. This provision also emphasizes that various technical and practical requirements related to the requirements of the President and Vice President, in particular the age threshold for candidacy for President and Vice President, are within the domain of the legislative body which is then formulated in a law.

Even though the concept of open legal policy is in the political area and not juridical, namely in the realm of legislative institutions, this does not mean that the concept of open legal policy is an absolute concept and has no limitations.<sup>13</sup> From various Constitutional Court decisions, a view has developed that although the concept of open legal policy is freedom of legislative power, the concept of open legal policy is actually limited by several things, such as: it must not conflict with the constitution, it must not be a form of exceeding the authority formulated by the legislators, is not a form of abuse of authority, and does not derogate rights previously guaranteed by law.<sup>14</sup> In other developments, through its various decisions, the Constitutional Court also emphasized that the limits

<sup>9</sup> Hananto Widodo, Dicky Eko Prasetyo, and Fradhana Putra Disantara, "Relasi Kekuasaan Antar Presiden Dan Wakil Presiden Dalam Sistem Ketatanegaraan Republik Indonesia," *Pandecta Research Law Journal* 15, no. 1 (2020): 13–25, <https://doi.org/10.15294/pandecta.v15i1.24554>.

<sup>10</sup> Muhammad Syaifei and Muhammad Rafi Darajati, "Design of General Election in Indonesia," *Law Reform: Jurnal Pembaharuan Hukum* 16, no. 1 (2020): 97–111, <https://doi.org/10.14710/lr.v16i1.30308>.

<sup>11</sup> T Michael, "General Election and the Study of the Future," *Jurnal Notariil* 3, no. 2 (2018): 130–36, <https://core.ac.uk/download/pdf/268200581.pdf>.

<sup>12</sup> Muhammad Anwar Tanjung Tanjung, Retno Saraswati, and Lita Tyesta A.L.W, "Constitutional Democracy and National Legal Instruments in Resolving Regional Election Disputes," *Lex Publica* 7, no. 1 (2020): 95–109, <https://doi.org/10.58829/lp.7.1.2020.95-109>.direct regional head elections (Pemilihan Umum Kepala Daerah/Pilkada

<sup>13</sup> Dian Fitri Sabrina and Rosa Ristawati, "The Implementation of Good Governance In The Presidential Election In Indonesia," *Yuridika* 36, no. 2 (2021): 281, <https://doi.org/10.20473/ydk.v36i2.21096>.

<sup>14</sup> Andi Intan Purnamasari et al., "Redesigning: Handling Of Indonesian Election Violations Abroad To Realizing Quality 2024 Elections," *Fiat Justisia: Jurnal Ilmu Hukum* 17, no. 1 (2023): 75–92, <https://doi.org/10.25041/fiatjustisia.v17no1.2637>.

of the concept of open legal policy are that it does not conflict with rationality, morality, and is not a form of injustice that cannot be tolerated.<sup>15</sup>

If we refer to the various limitations of the concept of open legal policy as developed in the Constitutional Court jurisprudence above, it can actually be concluded that the concept of open legal policy can be implemented as long as it does not conflict with the constitution, does not constitute abuse or arbitrariness, does not derogate rights previously guaranteed by law, does not conflict with morality, rationality, and is not an injustice that cannot be tolerated. Referring to Constitutional Court Decision on the Age of the President and Vice President, in assessing whether the age threshold for candidates for President and Vice President is an open legal policy or not, it can be seen by referring to the theory of dignified justice. The importance of analysis related to the theory of dignified justice to assess whether the age threshold for Presidential and Vice Presidential candidates is an open legal policy or not is important because the theory of dignified justice emphasizes the importance of the dimensions and values of national morality which are based on Pancasila as the main value that must be considered in every legal product, especially the Constitutional Court Decision.<sup>16</sup>

The theory of dignified justice is important as an analytical tool because this theory emphasizes the existence of a “meeting point” between *lex aeterna* (law with a universal divine dimension) and aspects of the *volkgeist* or legal ideals that develop in society. By referring to this view, the main relevance of the theory of dignified justice is to assess whether the age threshold for Presidential and Vice Presidential candidates is an open legal policy or not because as a provision that has an open legal policy orientation, the “meeting point” between *lex aeterna* (law with dimensions universal divinity) with aspects of the *volkgeist* or legal ideals developing in society must be the main priority for assessing it. In the Indonesian context, the “meeting” between *lex aeterna* (law with a universal divine dimension) and aspects of *volkgeist* or legal ideals that develop in society is actually contained in the formulation of Pancasila.<sup>17</sup>

Pancasila, as is known, has five basic values, of which these five values are actually the meeting point between *lex aeterna* (law with a universal divine dimension) and aspects of *volkgeist* or legal ideals that develop in society.<sup>18</sup> The *lex aeterna* aspect can be seen in the first principle which emphasizes divine values and dimensions as the basic values that animate other values in Pancasila (*causa prima*).<sup>19</sup> Meanwhile, the *volkgeist* aspect or legal ideals that develop in society can be seen in various precepts, especially the fifth precept which emphasizes the orientation of social justice as a dimension of justice that must be given to all Indonesian society. Social justice is actually a view of

<sup>15</sup> Teuku Saiful Bahri Johan, *Hukum Tata Negara Dan Hukum Administrasi Negara Dalam Tataran Reformasi Ketatanegaraan Indonesia*, 1st ed. (Sleman: Deepublish, 2018).

<sup>16</sup> Ermanto Fahamsyah and Fradhana Putra Disantara, “The Dignified Justice Perspective on the Enigma of Health Protocols COVID-19 as a Code of Ethics,” *Jurnal Pembaharuan Hukum* 9, no. 1 (2022): 1–15, <https://doi.org/http://dx.doi.org/10.26532/jph.v9i1.17413>.

<sup>17</sup> Teguh Prasetyo, *Keadilan Bermartabat Perspektif Teori Hukum* (Bandung: Nusa Media, 2017).

<sup>18</sup> A'An Efendi and Fradhana Putra Disantara, “Post Conditionally Unconstitutional of Job Creation Law: Quo Vadis Legal Certainty?,” *Yuridika* 37, no. 2 (2022): 329–66, <https://doi.org/https://doi.org/10.20473/ydk.v37i2.33364>.

<sup>19</sup> Junaidi Ahmad and Agmar Media, “Penegakan Hukum Kepemiluan Untuk Pemilu Bermartabat,” *Jurnal Sosial Humaniora Sigli* 4, no. 1 (2021): 77–86, <https://doi.org/10.47647/jsh.v4i1.448>.

justice in a broad sense which actually goes beyond the existence of legal justice and more substantively emphasizes the social dimension in implementing justice.<sup>20</sup> Looking at the essence of the theory of dignified justice above, it can be seen that to assess whether the age threshold for candidates for President and Vice President is an open legal policy or not, it is necessary to look at the comprehensive dimensions of justice which in Pancasila are formulated with the idea of social justice.

Referring to Constitutional Court Decision on the Age of the President and Vice President, it can actually be seen that through the decision the Constitutional Court assesses that Constitutional Court Decision on the Age of the President and Vice President seeks to facilitate the millennial generation, especially young people, to have the opportunity to become candidates for President and Vice President of Indonesia in the future. This is because in the Election Law, the age for running for President and Vice President is limited to a minimum age of 40 years, so this has closed the opportunity for the younger generation to have the opportunity to become candidates for President and Vice President of Indonesia in the future.

At first glance, if you look at the orientation of the Constitutional Court's decision, the age of the President and Vice President actually has good values and efforts to facilitate the younger generation as leaders in the future. However, the problem is whether the discourse on facilitating the younger generation as leaders in the future, especially as candidates for President and Vice President, is within the purview of the Constitutional Court to adjudicate? Referring to the concept of open legal policy along with the theory of dignified justice, efforts and discourse to facilitate the younger generation as leaders in the future, especially as candidates for President and Vice President, are actually good things to formulate but it is not in the realm of the Constitutional Court to decide. If we refer to the concept of open legal policy, the discourse on facilitating the younger generation as leaders in the future, especially as candidates for President and Vice President, should be formulated in the legislative process through law revision and not in the Constitutional Court's domain to decide. Apart from that, if you look at the boundaries of the concept of open legal policy, then in fact no aspect has been violated because the age threshold of 40 years for candidates for President and Vice President does not violate morality and is not an intolerable injustice.

Judging from the theory of dignified justice, the discourse on facilitating the young generation as leaders in the future, especially as candidates for President and Vice President, should be formulated in the revision of laws through processes in legislative institutions and not through court institutions (in this case the Constitutional Court). This can actually be understood because by referring to the idea of social justice, the formulation of legal policies related to facilitating the young generation as leaders in the future, especially as candidates for President and Vice President, must also receive consideration from both legal and non-legal aspects. These non-legal considerations,

<sup>20</sup> Dicky Eko Prasetyo Adam Ilyas Felix Ferdin Bakker, "Membangun Moralitas Dan Hukum Sebagai Integrative Mechanism Di Masyarakat Dalam Perspektif Hukum Progresif," *Mimbar Keadilan* 14, no. 2 (2021): 128-38.

including political considerations, must also be put forward and formulated comprehensively in the legislative process.

Based on the analysis above, the enigma of the age threshold for presidential candidacy in the perspective of the theory of dignified justice occurs because the Constitutional Court has gone beyond the open legal policy conception where the age threshold for presidential and vice presidential candidacy is actually the domain of the legislative institution as in the open legal policy conception. Judging from the theory of dignified justice, the enigma of the age threshold for presidential candidacy also occurs because the Constitutional Court failed to construct the dimensions of social justice as envisioned in the formulation of Pancasila. Through reasoning based on social justice, it would actually be wiser and wiser for the Constitutional Court to hand over the age limit for nominations for President and Vice President by the legislators.

## **2.2. Family Court Issues: Socio-Legal Impact of Constitutional Court Decision No. 90/PUU-XXI/2023**

Although in general Constitutional Court Decision on the Age of the President and Vice President has legal implications in the form of changes related to the requirements for becoming President and Vice President, not only must they be at least 40 years old, but those under 40 years old can also become candidates for President and Vice President as long as they are or have been elected to a public position selected by elections and regional head elections. Apart from its juridical implications, Constitutional Court Decision on the Age of the President and Vice President also has dimensions of social and legal impact, especially related to the issue of “Jokowi family dynastic politics.” The issue of “Jokowi family dynasty politics” is an issue that has emerged because seen from the socio-political background, the Constitutional Court’s decision on the ages of the President and Vice President is indeed related to President Jokowi’s son, Gibran Rakabumi, running as a candidate for Vice President from Prabowo Subianto.<sup>21</sup>

Apart from that, regarding the Constitutional Court’s decision on the ages of the President and Vice President, the Chief Justice of the Constitutional Court is also held by President Jokowi’s brother-in-law, who is automatically Gibran Rakabumi’s uncle. With this intrigue in the social and political aspects, it cannot be blamed if the public then considers that in Constitutional Court Decision on the Age of the President and Vice President, the Constitutional Court actually positioned itself as the Family Court. The issue and identification of the Constitutional Court as a Family Court is a form of “play” and criticism of the authority of the Constitutional Court which actually facilitates and seems to “force” changes to the age requirements for Presidential and Vice Presidential candidates through its decisions.

In fact, in the previous decision, namely Constitutional Court Decision No. 29/PUU-XXI/2023 that the Constitutional Court actually rejected the request from the Indonesian Solidarity Party (PSI) to lower the age requirement for Presidential and Vice Presidential candidates from 40 to 35 on the grounds that it was an open legal policy. This gives rise

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<sup>21</sup> Alinda Hardiantoro, “Perjalanan Karier Politik Gibran, Dua Tahun Wali Kota Solo Lalu Melesat Jadi Cawapres.”



to an enigma or lack of clarity and legal uncertainty, namely the inconsistency in the logic of the Constitutional Court Decision between Constitutional Court Decision No. 29/PUU-XXI/2023 with the Constitutional Court Decision on the Age of the President and Vice President which seems to contradict each other. With this inconsistent legal logic, it is natural that there are issues in society regarding the Constitutional Court as a Family Court that facilitates President Jokowi's family dynasty politics.<sup>22</sup> There are social, legal and political impacts on the CONSTITUTIONAL COURT's decision. The age of the President and Vice President which categorizes that the Constitutional Court has facilitated President Jokowi's family dynasty politics and has become a Family Court can actually be understood because every legal product does not exist and works in a vacuum.<sup>23</sup>

According to Nonet and Selznick, every legal product, especially court decisions, not only has juridical implications, but also has impacts from social, political, economic, cultural and other aspects.<sup>24</sup> If we look at Roscoe Pound's idea of law as a means of social engineering in society, it is implicitly understood that even though the law has been formulated in a strict juridical process and logic, the law is not always "independent" of the various social realities that exist in society.<sup>25</sup> Legal products, including court decisions, are not always "independent" with the various social realities that exist in society. This is what makes that behind a legal decision there are "hidden motives" that often get the attention of the public.<sup>26</sup> In the context of Constitutional Court Decision on the Age of the President and Vice President, it can be understood that even though Constitutional Court Decision on the Age of the President and Vice President is a legal decision, its social, legal and political impact in the form of the Family Court issue must also be understood as a form of public criticism and concern for the Constitutional Court as an institution court to guard the spirit of the constitution.

Moreover, the inconsistency of the legal logic of Constitutional Court Decision on the Age of the President and Vice President with previous decisions has raised suspicion among the public as to what is actually behind Constitutional Court Decision on the Age of the President and Vice President. Based on the results of the analysis above, Constitutional Court Decision on the Age of the President and Vice President as part of a legal product certainly has social, political and legal impacts on society. Issues related to the Family Court should be addressed wisely by the Constitutional Court because these issues exist as a form of public concern for the dignity of the Constitutional Court as an institution that protects the constitution. Therefore, the existence of issues related to the Family Court must be an evaluation for the Constitutional Court so that in the future it can produce decisions that can bring justice to society.

<sup>22</sup> Iryana Anwar Lobubun, Muslim, "The Impact Of The Special General Election Judiciary On The Authority Of The Constitutional Court," *Caraka Justitia* 2, no. 2 (2022): 98.

<sup>23</sup> Suteki, *Desain Hukum Di Ruang Sosial*, 1st ed. (Semarang: Thafa Media, 2013).

<sup>24</sup> Agam Ibnu Asa, Misnal Munir, and Rr. Siti Murti Ningsih, "Nonet and Selznick'S Responsive Law Concept in a Historical Philosophy Perspective," *Crepido* 3, no. 2 (2021): 96–109, <https://doi.org/10.14710/crepido.3.2.96-109>.

<sup>25</sup> Ahmad Qiram As-suvi and Moh Zainullah, "Sociology of Law in The Perspective of Roscoe Pound and Donald Black and Its Relevance in The Indonesian Context," *PJLS: Peradaban Journal of Law and Society* 1, no. 2 (2022): 82–95.

<sup>26</sup> Danang Wahyu Muhammad Kautsar, Izzy Al, "Sistem Hukum Modern Lawrance M. Friedman: Budaya Hukum Dan Perubahan Sosial Masyarakat Dari Industrial Ke Digital," *Sapienta et Virtus* 7, no. 2 (2022): 84–99.

### 3. CONCLUSION

The enigma of the age threshold for nominations for President and Vice President in the perspective of the theory of dignified justice occurs because the Constitutional Court has gone beyond the open legal policy conception where the age threshold for presidential and Vice Presidential nominations is actually the domain of legislative institutions as in the open legal policy conception. Judging from the theory of dignified justice, the enigma of the age threshold for presidential candidacy also occurs because the Constitutional Court failed to construct the dimensions of social justice as envisioned in the formulation of Pancasila. Through reasoning based on social justice, it would actually be wiser and wiser for the Constitutional Court to hand over the age limit for nominations for President and Vice President by the legislators.

Constitutional Court Decision on the Age of the President and Vice President as part of a legal product certainly has social, political and legal impacts on society. Issues related to the Family Court should be addressed wisely by the Constitutional Court because these issues exist as a form of public concern for the dignity of the Constitutional Court as an institution that protects the constitution. Therefore, the existence of issues related to the Family Court must be an evaluation for the Constitutional Court so that in the future it can produce decisions that can bring justice to society.

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