

Controversy Over the Candidacy of Gibran Rakabuming Raka as Vice Presidential Candidate in Legal Review

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ABSTRAK

Penelitian ini bertujuan untuk memberikan pemahaman mengenai bagaimana keabsahan Gibran sebagai wakil presiden terpilih, dan bagaimana pertimbangan hukum Anwar Usman sebagai majelis hakim Mahkamah Konstitusi dalam putusan Nomor 90/PUU-XXI/2023. Metode yang digunakan dalam penelitian ini yaitu metode yuridis normatif dengan menggunakan pendekatan kualitatif. Hasil dari penelitian ini adalah Hakim MK Anwar Usman terbukti melanggar kode etik peradilan dengan melanggar asas imparisialitas serta melanggar asas nemo judex in causa sua. Studi ini juga menjelaskan legalitas Gibran sebagai cawapres terpilih, Gibran memang dianggap sebagai cawapres yang melanggar kode etik dalam pencalonannya. Namun, meskipun banyak perdebatan, Gibran tetap menjadi Wakil Presiden terpilih secara sah.

ABSTRACT

Research This aim for give understanding about How the legality of Gibran as vice president chosen, and how legality of Anwar Usman as panel of judges of the Constitutional Court in judge decision Number 90/PUU-XXI/2023. Method used in study This that is method normative juridical with use approach qualitative. Result of study This that is that MK Judge Anwar Usman was proven violate code ethics judiciary with violate principle impartiality as well as violate the principle of nemo judex in causa sua. Study this also explains the legality of Gibran as vice president elected, Gibran indeed considered the vice presidential candidate who violated ethics law in his candidacy. However, although Lots debate, Gibran remains became Vice President validly elected.

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1. INTRODUCTION

A number of time Then We has carry out party democracy that is election president and vice president, as well election legislative members, namely the DPR RI, DPD RI, Provincial DPRD, and Regency/City DPRD. Democratic Party in This spelled out Enough unique Because own Lots controversial in its implementation. One that became controversy that is nomination President Joko Widodo's eldest son became vice presidential candidate.

Gibran's appointment as vice presidential candidate from Forward Indonesia Coalition for The 2024 elections bring fresh perspective on the world of Indonesian (Putri & Ahmad, 2024). Gibran's nomination as vice presidential candidate become controversy among observers Because channel his candidacy. Gibran who at the time will register as vice presidential candidate his age Still Not yet Enough For nominate yourself , suddenly moment will closed registration presidential and vice presidential candidates go out MK decision Number 90/PUU-XXI/2023 regarding age limits presidential and vice presidential candidates, namely addition the phrase “ at least 40 years old or ever / currently occupy elected position through election general including election head regional ” in article 169 letter q of the Election Law (Muhdar et al., 2023).

Court Decision Constitution This appear as response to objections voiced by various parties, incl circles academics, students as well as figures parties and youth. They look that stated age limit provisions in Article 169 letter q of the Law Number 7 of 2017 concerning Election No only hinder progress generation young in competition leadership national, but also potential blocking the figures young to be hope generation millennial For nominate self as President and Vice President (Subandri, 2024).

Moment after Gibran's decision was immediate appointed and registered to the KPU as vice presidential candidate by candidate President Prabowo Subianto. A number expert constitutional law considers that the Constitutional Court does not should grant application that, because application the considered of course own intention or objective For carrying Gibran as presidential candidate or vice presidential candidate (Perdana Aditya & Imam Muhammad, 2024).

However, it's legal just If somebody want to submit a material test to court constitution, which makes decision the controversy namely the judge who examines and decides case That is family from Gibran who has interest for nominate self become vice presidential candidate from presidential candidate Prabowo Subianto. Chairman The panel of judges decides namely Anwar Usman, namely Gibran's uncle and brother-in-law from President Joko Widodo.

Although No is known is when inspect case Anwar Usman, President Jokowi and Gibran did this coordination or cooperation One each other family or no, but it's clear Certain there is a conflict of interest between them, because they Still think connection kinship. In ethics profession judiciary, a judge does not can examine, adjudicate, and decide A related matters with himself itself (Principle of *nemo judex in causa sua*).

So, from causes on Gibran's candidacy became very controversial and becoming material talks Lots expert figures law and politics. A number of figure think that Gibran's candidacy is not It's valid, there are also those who think Gibran's candidacy was flawed legal, and still is Lots Again opinions other.

Consequence from The Constitutional Court's decision Number 90/PUU-XXI/2023 is controversial, so Anwar Usman is examined by the Court MK's honor, and was given penalty ethics by the Court Honorary MK (MKMK). Anwar Usman was dismissed as Chief Justice of the

Constitutional Court by the Court The MK's honor stated in MKMK Decision Number 02/MKMK/11/2023. Court The MK's honor decides Chief Justice of the Constitutional Court Anwar Usman (Reported Judge) did violation to guidelines Seven Hutama's initiative is one of them containing about principle integrity, decency , and appropriateness as well as impartiality (Hadji et al., 2024).

Then, how legality of Constitutional Court judge Anwar Usman in judge case the according to regulation current regulation? And how Gibran's current legality Already set become Vice President selected from Partner President Prabowo Subianto elected? Then we will discuss in article This more carry on.

2. LITERATURE REVIEW

2.1 *Asas No One Is A Judge in His Own Cause*

A No should be the judge inside involving cases its interests personal. Situation This can create bias and threatens objectivity of the judicial process. In Indonesia, judges are mandatory resign self If own connection family with litigants. This matter because bond family can in a way experience influence judge's assessment. Principle This No only limited to relationships family, but also includes other situations where the judge has interest personal in case the. Conflict interest can put the judge in position difficult moment make decision. Therefore that, adage *nemo judex in causa sua* (no anyone can be the judge inside the case itself) be guidelines important in system Justice For guard integrity and justice (Tarigan, 2023).

3. METHODS

Deep data collection methods studies This apply approach normative juridical with analysis qualitative. Study This use framework normative law as basic, temporary the analysis done in a way qualitative for understand and interpret the data obtained. This method normal used in Legal research for analyze existing legal norms (Soekanto, 2022). Data sources used that is there are two types, namely primary data sources and secondary data sources. Primary data sources include regulation legislation and decisions court. Whereas secondary data sources that is books law, journals laws and articles scientific. Data collection techniques used that is with collect and study ingredients relevant laws, and make notes important from reviewed sources. Data analysis techniques, namely with describe rules existing laws, and combining various rule relevant law.

4. RESULT AND DISCUSSION

4.1 **Legality of Constitutional Court Judge Anwar Usman in Judge Case Regarding Age Limits Presidential and Vice Presidential Candidates**

Controversy around legality of Constitutional Court judge Anwar Usman in judge case Number 90/PUU-XXI/2023 has become public spotlight and create debate significant law. Case This related with material testing Constitution Elections, especially about condition minimum age for candidate President and vice president (*Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023*, n.d.).

The essence of controversy This is fact that Anwar Usman has connection kinship with one potential parties get profit from decision the. Anwar Usman is uncle from Gibran Rakabuming Raka,

son President Joko Widodo, who at that time That reported will become vice presidential candidate. Situation This give rise to question Serious about possibility exists conflict interest (Aziz, 2024).

The essence of discussion This centered on principles known law with the Latin term *nemo judex in causa sua*. Principle this, which confirms that somebody No can Act as internal judge case involving himself yourself, be principal discussion main in debate moment This (Tarigan, 2023). This principle is fundamental in guard integrity and objectivity of the judicial process. In context this, even though Anwar Usman is not party direct in matters, relationships his kinship with potential parties benefited from the decision the can considered violate Spirit from principle This (BN et al., 2023).

Article 5 paragraph (1) Regulations Court Constitution Number 2 of 2014 concerning Assembly Honor Court The Constitution (MKMK) states that the constitutional judge forbidden handle case if own connection family blood or Semenda with litigants (*Peraturan Mahkamah Konstitusi Nomor 2 Tahun 2014 Tentang Majelis Kehormatan Mahkamah Konstitusi*, n.d.). Even though Gibran isn't party who direct litigious, arguments can be made submitted that Spirit from rule This still relevant in case This.

Respond controversy This, the MK Ethics Council decides for inspect conjecture violation ethics by Anwar Usman. As consequence from inspection that, Anwar Usman finally resign self from his position as chairman of the Constitutional Court.

Controversy This give rise to question about legitimacy MK decision in case the. A number of party opinion that decision the disabled procedurally and ethically, temporarily the other side argued that The Constitutional Court 's decision remains valid and binding regardless from controversy This ("*Implikasi Hukum Konflik Kepentingan Dalam Putusan Mahkamah Konstitusi*," 2023).

This case has trigger discussion about the need for reform in the Constitutional Court's supervision and ethics system. A number of party propose strengthening mechanism For identify and treat potency conflict interests in the future (Butt, 2015)

Legality of Constitutional Court Judge Anwar Usman in judge case Number 90/PUU-XXI/2023 has become subject debate intense legal and ethical. Although in a way technical Possible No violate rule written, the action can considered contradictory with Spirit *nemo judex* principle in *causa sua* and principles ethics Justice. This case highlighting importance integrity, transparency, and mechanisms strong supervision in institution Justice country's highest.

4.2 The legality of Gibran as Vice President Selected

Controversy around legality of Gibran Rakabuming Raka as vice president selected has become topic intense debate in Indonesia. This case highlighting various aspect law, politics, and ethics in the Indonesian democratic system.

Many experts believe that Gibran should be given more intensive cadre training before he can become the country's leader. Because cadre formation is very important for prospective leaders so that they will be better prepared to become leaders and contribute to the country (Cahyono, 2013). Because they think, Indonesia need leaders who are able to face complex challenges in various fields, such as political, economic, social, and environmental (Cahyono et al., 2023).

Controversy main centered on change order minimum age for candidate President and vice president. Previously, the Election Law sets a minimum age limit of 40 years (*Undang-Undang Nomor*

7 Tahun 20017 Tentang Pemilihan Umum, n.d.). However, the Court Constitution emit possible decision candidates under 40 years of age for nominate yourself, provided they Once took office as head area.

MK Decision Number 90/PUU-XXI/2023 is considered controversial Because a number of reason, first Because decision This issued approaching elections and coincide with appearance discourse Gibran's candidacy. Second, the current chairman of the Constitutional Court that, Anwar Usman, is uncle Gibran, raises conjecture exists conflict interest. Third, some party consider decision This too Far change substance Constitution (“Analisis Kritis Putusan MK No. 90/PUU-XXI/2023,” 2023).

Supporter the legality of Gibran's argument that his candidacy legitimate in a way law Because follow The Constitutional Court's decision is final and binding. However, critics opinion that decision the violate Spirit constitution and principles separation power.

The nomination and election of Gibran as vice president is also inviting critics related dynasty politics. As son President Joko Widodo, his presence in the position of vice president considered by some parties as form nepotism politics.

Controversy This give rise to question about quality Indonesian democracy. A number of observer state worries that case This can weaken institution democracy and reduce public trust in the election process.

Even though Gibran has elected, debate law Still continues. A number of party submit lawsuit to Court Constitution related issue election, with one of the main arguments is invalidity Gibran's candidacy.

This case is also interesting attention international, with a number of observer foreign highlighting implications his to Indonesian democracy and stability politics in Indonesia (Kansil & Nadilatasya, 2024).

Controversy the legality of Gibran as vice president selected reflect complexity and challenges in the Indonesian democratic system. This case has trigger debate important about supremacy law, integrity state institutions, and the future democracy in Indonesia. Regardless from validity the law is controversial This Like No Like will own impact long term against landscape Indonesian politics and law.

5. CONCLUSION

Legality of Constitutional Court judge Anwar Usman in judge case Number 90/PUU-XXI/2023 regarding age limits presidential and vice presidential candidates has become subject debate intense legal and ethical. Although in a way technical Possible No violate rule written, the action can considered contradictory with Spirit nemo judex principle in causa sua and principles ethics Justice. This case highlighting importance integrity, transparency, and mechanisms strong supervision in institution Justice country's highest.

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Although Lots debate among the community and circles academic, Gibran remains became Vice President selected in 2024. Until moment This Not yet there is something to prove it that Gibran's victory was results from violation of law. In conclusion, Gibran remains became vice president chosen legally and legally on the basis KPU and MK decisions.









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