

CHAPTER I

INTRODUCTION

A. Research Background

Ageism, the discrimination or unfair treatment of individuals based on their age, is a multifaceted issue that permeates various aspects of society. In the realm of politics, ageism can manifest itself in the form of age-related eligibility requirements for political candidates, which can hinder younger individuals from participating in democratic processes. The research delves into the intricate issue of ageism in Indonesian presidential candidacy, with a specific focus on the case of Faldo Maldini, a promising political figure whose candidacy was thwarted by a mere one-day age difference. It also explores the legal basis of age limits and the complexities of age discrimination within the Indonesian legal framework.

One of the most poignant examples illustrating the impact of ageism on political candidacy in Indonesia is the case of Faldo Maldini. Born on July 9, 1990, Faldo Maldini was a promising political figure with aspirations to become the Governor of West Sumatra. However, his candidacy was disqualified due to his age. This disqualification hinged on a dishearteningly minute difference – Faldo Maldini was 29 years old when the candidate's list was finalized on July 8, 2020, merely one day shy of the 30-year age limits stipulated by Law Number 10 of 2016 on the Second Amendment to Law Number 1 of 2015 on the Determination of Government Regulations in Lieu of

Law Number 1 of 2014 on the Election of Governors, Regents and Mayors into Law.

The legal basis for age limits in Indonesian politics lies primarily in Law No. 10 of 2016, specifically in its provisions concerning the eligibility criteria for political candidates. Article 1, Number 1, Article 7, Paragraph (2), Letter e explicitly states, "*berusia paling rendah 30 (tiga puluh) tahun untuk Calon Gubernur dan Calon Wakil Gubernur serta 25 (dua puluh lima) tahun untuk Calon Bupati dan Calon Wakil Bupati serta Calon Walikota dan Calon Wakil Walikota*" (a minimum of 30 years old for Governor and Vice Governor candidates and 25 years old for Regent and Vice Regent, as well as Mayor and Vice Mayor candidates).

To initiate the formal legal proceedings, a petition was filed with the Constitutional Court of Indonesia under the designation "58/PUU-XVII/2019." The timeline of proceedings was well-defined, commencing with the receipt of the petition in October 2019 and concluding with deliberations during a plenary session of the Constitutional Court in December 2019. The panel of judges tasked with deliberating the case was composed of esteemed members of the Constitutional Court, including Anwar Usman, Aswanto, Saldi Isra, I Dewa Gede Palguna, Wahiduddin Adams, Arief Hidayat, Enny Nurbaningsih, Manahan M.P. Sitompul, and Suhartoyo.

At the core of the petition was the challenge to the age-related candidacy requirements as stipulated in Article 1, Number 1, Article 7, Paragraph (2), Letter e of Law No. 10 of 2016, which set the minimum age for

gubernatorial candidates at 30 years and for mayoral candidates at 25 years. To proceed with the judicial review, They had to establish their legal standing by demonstrating their legitimate interest and direct impact due to the age limits. The particular issue was complemented by the concept of "*kerugian konstitusional*" or constitutional harm, which underlined that petitioners must show their constitutional rights or interests were indeed harmed or at risk.

The judicial review process regarding age-related candidacy requirements in Indonesian politics represented a multifaceted journey, involving legal standing, constitutional principles, international human rights norms, comparative analysis, and a nuanced interpretation of the law. While the outcome was conditional, it signified a substantial stride in addressing ageism and promoting a more inclusive and democratic political system in Indonesia. The implications of such case continue to resonate within Indonesia's ongoing political discourse, emphasizing the need for continued scrutiny and potential legislative changes to ensure a fair and inclusive political system for all.

Indonesia, the world's largest Muslim democracy, has witnessed shifts in its democratic landscape across distinct periods: Parliamentary Democracy, Guided Democracy, and Pancasila Democracy. The nation conducted its initial free and fair general elections in 1955, yet the era of parliamentary democracy was brief, replaced successively by Guided Democracy and the authoritarian New Order under the tenets of Pancasila Democracy. Following the downfall of the New Order, Indonesia embarked on a transitional democratic phase,

installing five democratically elected presidents since then: Bacharuddin Jusuf Habibie, Abdurrahman Wahid, Megawati Sukarnoputri, Susilo Bambang Yudoyono, and the current president, Joko Widodo.

The advent of presidential elections in Indonesia marked a pivotal juncture in its democratic trajectory, characterized by a diverse party system and inherent challenges. The list of presidents underscores the political diversity in the country, each representing different parties during their tenures. The preparation for the presidential election of 2019 commenced with the General Election Commission opening party registrations in September 2017, followed by the registration of presidential candidates in August 2018. Notably, the 2019 election witnessed a contest between incumbent Joko Widodo and Prabowo Subianto, continuing the rivalry observed in the previous 2014 presidential election.¹

As the world's third-largest democracy, Indonesia has a significant history reliant on civil society in nurturing and safeguarding democratic values. The pivotal role of civil society emerged prominently in 1998 when a monumental student movement forced Suharto's resignation and urged B.J. Habibie, his successor, to adopt extensive democratic reforms. The robustness of civil society groups, notably the media, played a crucial role in resisting attempts by conservative elites to retract earlier instituted reforms in the late 2000s and early 2010s. Despite this collision between elites aiming to

¹ Ihwan Susila, *et al*, "Symbolic Political Communication, and Trust: A Young Voters' Perspective of the Indonesian Presidential Election", *Journal of Political Marketing*, Vol. 19, No. 1–2 (April, 2020), p. 6.

undermine democracy and civil society's resistance, Indonesia's democratic strength only experienced a moderate decline in the first half of the 2010s.

A significant event in this trajectory was the 2019 amendment to the anti-corruption law, substantially weakening the Anti-Corruption Agency (*Komisi Pemberantasan Korupsi*, KPK), which had garnered widespread trust among the population. While previous attempts by non-democratic elites to revise this law faced strong civil society opposition, 2019 marked a shift. Despite brief opposition from student groups, swiftly subdued partly due to government repression, President Joko Widodo proceeded with the law, disregarding prior promises to reconsider the revision. The diminishing ability of civil society to resist elite-driven democratic rollbacks has accelerated Indonesia's democratic regression in both pace and essence.²

The decision to delve into ageism within Indonesian presidential candidacy over other age-related issues is founded on its crucial significance within the nation's democratic framework. This focus aligns with the pinnacle role of presidential elections in shaping governance and society, drawing substantial attention from policymakers and the public. Investigating age-based limitations offers insights into their impact on democratic inclusivity, especially for the youth, shedding light on disparities between legal mandates and constitutional principles. The subject's strong legal grounding facilitates a comprehensive exploration, potentially yielding recommendations for policy

² Marcus Mietzner, "Sources of Resistance to Democratic Decline: Indonesian Civil Society and Its Trials", *Democratization*, Vol. 28, No. 1 (July, 2020), p. 2.

amendments. This targeted research aims to influence tangible reforms, making it a pertinent and impactful avenue within the broader discussion on ageism and democracy in Indonesia.

B. Research Problems

The author addressed two questions that need to be answered in accordance with the research background details mentioned above:

1. How does the element of ageism contain on Indonesian presidential candidacy's laws and threaten democracy?
2. How to provide more inclusive laws to overcome ageism on Indonesian presidential candidacy?

C. Research Objectives

In light of the research problem that was outlined earlier, the following are the objectives of this research:

1. To analyze the element of ageism in the laws regarding Indonesian presidential candidacy that threaten democracy.
2. To propose legislative measures that promote inclusivity and mitigate ageism in the context of Indonesian presidential candidacy.

D. Research Benefits

Given the objective of the research described above, there are some benefits of this research, namely:

1. Theoretical Benefit

Contribute to the development of legal science, particularly in the issue of constitutional law, especially in the issue of ageism, democracy and the mechanism of presidential candidacy in Indonesia.

2. Practical Benefit

Such research is expected useful recommendations for the House of Representatives (*Dewan Perwakilan Rakyat*, DPR) and President for changes to particular laws that provide an age threshold for the requirements for presidential candidacy in Indonesia.