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https://ojs.transpublika.com/index.php/POLRI
Online ISSN 2809-896X

https://doi.org/10.55047/polri.v4i3.1723

Original Article

The Concept of Open Legal Policy in Constitutional Court Decision No. 90/PUU-XXI/2023 on the Age Limit for Candidates for President and Vice President

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Received : 12 April - 2025
Accepted : 15 May - 2025
Published online : 17 May - 2025

Abstract

Article 6A paragraph (5) of the 1945 Constitution of Indonesia affirms the principle of open legal policy by stipulating that the procedures for the election of the President and Vice President must be regulated by law. This provides space for the legislature to regulate various provisions related to elections, while the Constitutional Court acts as an interpreter of the constitution. This study aims to analyze the application and suitability of the concept of open legal policy in the Constitutional Court Decision Number 90/PUU-XXI/2023 concerning the age limit of candidates for President and Vice President. The study employs normative legal research techniques with a qualitative juridical analysis perspective, utilizing secondary data, tertiary legal resources, and primary data for reinforcement. The theory of authority and *trias politica* (division of powers) is used to analyze the examined decision. The results showed that the Constitutional Court in Decision No. 90/PUU-XXI/2023 was inconsistent in deciding cases, even though the articles tested were the same and the legal considerations and rulings were similar. Therefore, it is recommended that the Constitutional Court be more consistent in issuing decisions, especially those related to open legal policies. Strengthening the capacity of Constitutional Court judges is also needed to better understand the authority and division of powers within the framework of the 1945 Constitution of the Republic of Indonesia. In conclusion, the application of the concept of open legal policy needs to be implemented consistently and wisely to maintain legal stability in Indonesia.

Keywords: Legislative Authority, Constitutional Interpretation, Legal Stability of Power Sharing, State System.

1. Introduction

Changes in the 1945 Constitution of the Republic of Indonesia led to the formation of the Constitutional Court. It was empowered by the constitution to give final judgment when determining whether or not a particular legislation is constitutional pursuant to article 24C of the 1945 Constitution. This power is commonly known as judicial review authority. There is a question as to why a law that has been discussed jointly between institutions, namely the legislative institution (DPR), and the executive institution (President), still requires review by the judicial institution, namely the Constitutional Court. Like a law, the Constitutional Court has final, legally binding authority to evaluate whether an act conforms with the 1945 Constitution.

Decisions stating that rules in certain parts of a law are unconstitutional and have no legal force are based on Constitutional Court decisions. In Law No. 24 of 2003 on the Constitutional Court, Article 56 (hereinafter referred to as the Constitutional Court Law) specifically has three forms, including rejected petitions, granted petitions, or petitions

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declared inadmissible. Even now, there are several new variants beyond the decision variants outside Article 56 of the Constitutional Court Law. The Constitutional Court makes various decisions, like those with granted verdicts, conditionally constitutional or unconstitutional; those postponing execution of judgments; as well as those establishing new norms (Hardianto et al., 2024). At present, the Constitutional Court is seized of ten matters concerning the 1945 Constitution of Indonesia, a role befitting the guardian of the constitution. Protecting the constitution proves difficult for the court because there are many people who try to break it from every side. Violations can come from the government or external entities attempting to undermine the constitution (Hutabarat, Salam, et al., 2022).

The presence of the Constitutional Court serves as a protection against all these violation attempts. The duty of judicial review is perhaps the most common way that the Constitutional Court offers protection among its many responsibilities and powers. When any law goes against the constitution, the Constitutional Court must assess it. Review means a review by one branch of power whereas the right to review or *toetsingsrecht* means the right to test. Both terms have the same meaning, namely the authority to review legislation. In practice, this right to review is known in two kinds that are formal review right (*formale toetsingsrecht*) and material review right (*materiale toetsingsrecht*).

The power to carry out an official assessment determines whether a legal instrument has followed the correct protocol outlined in the statutes. Typically, formal evaluation focuses on procedural matters and examines the legality of the entity responsible for the review. The material review power involves examining whether the substance of a legislation complies with or conflicts with higher-level regulations, as well as determining if a specific entity is authorized to enact certain regulations (Setiawan & Wisnaeni, 2017).

According to Jimly Asshiddiqie (2016), the Constitutional Court functions as a guardian of the constitution and has five functions in carrying out its duties, including controlling decisions made based on the democratic system, becoming the highest interpreter of the constitution, defending the constitutional rights of citizens, and defending human rights (Siahaan, 2015). The Constitutional Court as an institution that interprets the constitution as its duties and functions have been regulated in the 1945 Constitution, should have all of its decisions obeyed and implemented by the parties (Hutabarat, Fransisca, et al., 2022). Since adhering to every ruling of the Constitutional Court can be interpreted as disobeying the constitution itsel (Nggilu, 2019).

The discussion surrounding the review of laws against the 1945 Constitution has sparked controversy, particularly following the Constitutional Court Decision Number 90/PUU-XXI/2023 regarding the age limit for Presidential and Vice-Presidential candidates. The petitioner in this case, Almas Tsaqibbirru Re A, a student at the Faculty of Law, University of Surakarta (UNSA), argues that the provision in Article 169 letter (q) of Law Number 7 of 2017 on General Elections stating that Presidential and Vice-Presidential candidates must be at least 40 years old, infringes upon his constitutional rights as a citizen to vote and seek election to these positions.

The petitioner argues that the provisions in question violate their constitutional rights as guaranteed by the 1945 Constitution, specifically referring to Article 27 paragraph (1), Article 28D paragraph (1), and Article 28D paragraph (3) (Hardianto et al., 2024). The Constitutional Court partially granted the petition on Article 169 letter q of Law No. 7 of 2017, ruling that the age requirement of "at least 40 years old" is unconstitutional unless interpreted to include those holding elected office through general or regional elections. The article must be read as "at least 40 years old or holding an elected position," and the decision is to be published in the State Gazette (Hardianto et al., 2024).

There are several theories of age limits in the government system, including the theory of Intellectual and Emotional Maturity. According to maturity theory, a person's age is considered to have a direct relationship with the level of emotional and intellectual maturity. In the process of making complex political decisions, maturity is needed so that individuals can overcome pressure coming from various sides. According to Piaget (1972), cognitive development reaches its peak in adulthood, where a person can think rationally and maturely in complex situations. Leadership Experience Theory Age limits also function to ensure that Presidential and Vice-Presidential candidates have sufficient leadership experience. Many political theories, such as those proposed by Max Weber in his theory of charismatic, traditional, and rational-legal authority, emphasize the importance of practical experience in leading a complex country. A minimum age of 40 years is considered a time when someone may have gathered relevant political and professional experience (Weber, 1978).

The researcher realizes that the object of this research has been studied by other researchers with different titles but still has a close relationship with the research being conducted. Some previous relevant studies include Hasan (2021) which discusses the authority of the Constitutional Court in changing legal norms, Mulyata (2015) which discusses legal certainty in Constitutional Court decisions related to labor law, and Wibowo (2016) which discusses the concept of open legal policy in decisions on judicial review of laws in the Constitutional Court. Although there are similarities in the topics raised, this research has significant differences in several aspects.

Even though there are some common themes, this study places a greater emphasis on the implementation of the idea of transparent legal policy in the recent Constitutional Court verdict regarding the age restriction for Presidential and Vice-Presidential aspirants, a subject that has been largely overlooked in prior academic works. In addition, this research also criticizes the inconsistency of legal logic in Constitutional Court decisions and the legal standing of petitioners which has not been discussed in depth in previous research. Hence, this study seeks to make a fresh input through an intensive analysis into how open legal policy operates within the confines of examining certain laws which deal with the election of the President and Vice President.

The purpose of this study is to evaluate the use and appropriateness of the open legal policy concept in Constitutional Court Decision Number 90/PUU-XXI/2023 regarding age restrictions for Presidential and Vice-Presidential candidates. Researchers are keen to investigate how this concept is implemented in the ruling and its alignment with Indonesian constitutional principles. The findings of this study are anticipated to make a valuable contribution to the advancement of legal studies, particularly in constitutional law, and offer valuable perspectives for legal professionals and scholars. Additionally, this research seeks to enhance comprehension of open legal policy within the framework of Indonesian legislation and serve as a guide for future research on constitutional interpretation by the Constitutional Court.

2. Literature Review

2.1. Open Legal Policy

Open legal policy refers to state policy carried out by authorized bodies to establish regulations to achieve state goals (Jaya, 2007). The lack of precise rules in the Constitution of the Republic of Indonesia from 1945 suggests an open legal approach. This allows the lawmaker to have the autonomy to determine the substance of the legislation (Jaya, 2007). Open legal policy is not a decision without a basis, but is based on motives, goals, and

constitutional needs called constitutional accountability. If the basis or purpose is no longer relevant, the regulation can become unconstitutional. The Constitutional Court often uses open legal policy to refuse to review laws and leave it to the lawmakers (Ajie, 2016; Fauzani & Rohman, 2020).

This concept was first used in Constitutional Court Decision Number 10/PUU-III/2005. The decision suggests that the Constitutional Court has the authority to reject any law that is not specifically outlined in the Constitution, thereby giving the power over legal policy to the legislators. The Constitutional Court maintains a balance between legal certainty and the dynamics of societal development by allowing lawmakers to adapt rules to evolving needs (Wibowo, 2016).

2.2. Judicial Review

Legislative testing can be divided based on the subject, object, and time of testing. Judging from the subject that conducts the test, there are three types, namely testing conducted by judges (*toetsingsrecht van de rechter* or judicial review), testing conducted by the legislature (legislative review), and testing conducted by the executive (executive review) (Natabaya & Aziz, 2006).

In the perspective of constitutional theory, judicial review is an effort to strengthen the concept of the state by placing the constitution as the highest law (Latif, 2009). Judicial review authorizes the judiciary or other legal bodies to review or interpret laws and constitutions to ensure that legal products do not conflict with higher regulations and are in line with the constitution (Qamar, 2012; Simamora, 2013).

The concept of legal doctrine presents two different approaches to judicial review:

a. In the judicial system, judicial review involves a higher court reviewing a decision made by a lower court to ensure that the law was correctly applied and to allow for a reevaluation of the legal interpretation.
b. In terms of constitutional law, judicial review entails a body of government power examining and potentially overturning decisions made by legislative or executive branches.

2.3. Theoretical Framework

2.3.1. Theory of Authority

In Dutch legal terminology, the concept of authority or power is commonly referred to as "*bevoegdheid*." H.D. Stout explains that authority encompasses all regulations governing the exercise and transfer of governmental power among citizens under public law and in connection to public law (Puluhulawa, 2010). Meanwhile, according to P. Nicolia, authority refers to the capacity to carry out specific legal tasks, which are designed to result in legal implications such as the initiation and conclusion of certain legal ramifications (Hakim, 2011). Juridically, the definition of authority is the ability granted by legislation to create legal consequences (Indroharto, 1994).

In essence, authority is acquired through three means: attribution, delegation, and mandate. Attribution refers to the government's ability to act based on the law or position authority. Delegation involves transferring authority from one government entity to another. Mandate involves the relationship between authorities and their employees, where employees may gain authority on behalf of the authority in certain scenarios (Hadjon, 2017).

2.3.2. Theory of Trias Politica (Separation of Powers)

The concept of dividing powers is commonly referred to as "*Trias Politica*." The idea of Trias Politica was initially introduced by Montesquieu, a French philosopher, in 1748. The term Trias Politica originates from Greek, with "*Tri*" representing three, "*As*" representing axis/center, and "*Politica*" representing power (Yulistyowati et al., 2017). The concept of Trias Politica proposes that power within the government is distributed among three distinct branches: Legislative, Executive, and Judicial. The Legislative branch is responsible for making laws, the Executive branch ensures their enforcement, and the Judicial branch interprets and applies the laws (Busroh, 2010).

The idea of Trias Politica is a guiding principle that calls for a separation of powers to prevent potential abuse by those in positions of authority. The concept, introduced by Montesquieu in his book The Spirit of Laws, aims to establish a system where different branches of government maintain independence and balance each other out. The ultimate goal is to limit the consolidation of power and avoid the emergence of tyranny.

State institutions or government institutions can be classified into two parts based on the allocation of power (Miriam, 1993):

a. Vertically refers to the distribution of authority based on different tiers. This involves splitting authority between various levels of governance, such as the central government and regional authorities in a Unitary State;
b. Horizontally, the distribution of power is based on function, highlighting the clear separation of governmental roles such as Legislative, Executive, and Judicial.

3. Methods

3.1. Research Type

This study employs a normative method (legal normative research methodology) to analyze legal principles, legal systems, legal harmonization, legal background, and comparative law. The main concentration of this study is on exploring the idea of Open Legal Policy as outlined in Constitutional Court Decision Number 90/PUU-XXI/2023 concerning the Age Restriction for Presidential and Vice Presidential Candidates through an examination of pertinent laws and regulations (Soekanto & Mamudji, 2013).

3.2. Research Approaches

3.2.1. Statutory Approach

The legal method involves a thorough review and analysis of the legislation and regulations pertaining to the current legal matters, such as the recent revision to the Constitutional Court law in 2020, known as Law Number 7 of 2020 amending Law Number 24 of 2003. The aspects studied include legal principles, synchronization with the 1945 Constitution of the Republic of Indonesia, and seeking the ratio legis and ontology of laws to understand their philosophical content. This approach also includes the structure of norms in the hierarchy of legislation and the position of norms in legislation, both specific and general, old or new.

3.2.2. Case Approach

The case method involves studying legal cases from Indonesia and other countries that have set precedents. This approach highlights the judge's reasoning, known as the ratio decidendi, which influences the final decision. This ratio decidendi becomes a reference in

developing arguments for solving legal issues. The case approach does not refer to the dictum of the decision, but rather to the judge's legal reasoning explained with facts in the case.

3.2.3. Conceptual Approach

Marzuki suggests that researchers turn to the conceptual approach when there are no existing legal rules to refer to, usually because the issue has not been addressed yet. To construct concepts, researchers draw upon perspectives and doctrines in legal science to uncover ideas, interpretations, concepts, and legal principles that are pertinent to the current issues (Nugroho & Haryani, 2020).

3.3. Types and Sources of Legal Materials

In this study, data is categorized into three main groups: primary legal sources, secondary legal sources, and tertiary legal sources. Primary legal sources encompass legislation, court rulings, and Constitutional Court decisions. These decisions, like Constitutional Court Decision No. 90/PUU-XXI/2023, are considered authoritative due to the institutions behind them. Secondary legal sources offer insights into primary legal sources and can include research findings, textbooks, and news articles. Tertiary legal sources go a step further by providing explanations for both primary and secondary legal sources through resources like dictionaries and encyclopedias.

3.4. Legal Materials Collecting Technique

In normative legal research, data collection involves studying primary legal materials, secondary legal materials, tertiary legal materials, and possibly non-legal materials through literature review. Legal materials can be located through various methods such as reading, watching, listening, and using online resources.

3.5. Legal Materials Analyzing Technique

Studying these legal documents involves interpreting them in various ways, such as disagreeing with, critiquing, endorsing, incorporating, or providing commentary on them. Ultimately, researchers must draw conclusions based on their own understanding of the materials and theories they have studied (Nugroho & Haryani, 2020).

4. Results and Discussion

4.1. Application of the Open Legal Policy Concept in Constitutional Court Decision Number 90/PUU-XXI/2023 regarding the Age Limit for Presidential and Vice Presidential Candidates

Judicial review of legislation serves as a way to maintain balance within the country's legal framework, ensuring that laws created by the legislature and president are in line with the constitution. This process involves assessing the constitutionality of laws under scrutiny, using the constitution as a benchmark for evaluation (Asshiddiqie, 2005). In Falaakh's (2001) view, Constitutional review is the act of ensuring that all legal decisions and actions are in accordance with the constitution, thus the Constitutional Court is commonly referred to as the defender and exclusive interpreter of the constitution. This is due to its ability to determine if laws align with the constitution or not (Lailam, 2014).

According to the Constitutional Court, open legal policy pertains to the regulations within specific laws that are under the control of legislators. As previously mentioned, discussions on transparent legal policy have once again become a topic of interest after the Constitutional Court issued Decision No. 46/PUU-XIV/2016 regarding the interpretation of adultery in the Criminal Code. Other Constitutional Court rulings, including Decision No.

14/PUU-XI/2013 on the review of Law No. 42 of 2008 on Presidential and Vice Presidential Elections, have also sparked controversy, especially regarding the Presidential Threshold regulations. Other controversial open legal policy decisions include the review of Article 59 paragraph (2) of Law Number 32 of 2004 on Regional Government; the review of Article 9 paragraphs (1) and (2) of Law Number 12 of 2003 on Elections for Members of DPR, DPD, and DPRD; Decision Number 3/PUU-VII/2009 reviewing Article 202 paragraph (1) of Law Number 10 of 2008 on Elections for Members of DPR, DPD, and DPRD; Decision Number 86/PUU-X/2012 reviewing Article 5 paragraphs (1), (2), and Articles 6, 7 paragraphs (1), (2), and (3), Articles 17, 18 paragraphs (1) and (2), Articles 19, 38, and 41 of Law Number 23 of 2011 on Zakat Management; Decision Number 02/PUU-XI/2013 reviewing Article 22 paragraphs (1) and (5) of Law Number 8 of 2012 on Elections for Members of DPR, DPD, and DPRD; Decision Number 38/PUU-XI/2013 reviewing Article 7 paragraph (4), Articles 17, 21, 25 paragraph (5), Article 62, 63 paragraph (2), and Article 64 of Law Number 44 of 2009 on Hospitals, and others.

The Constitution Court often interprets negative or positive legislature when making decisions on public policy. Nevertheless, even within the Court itself, there is no clear foundation for alignment with judicial activism or judicial restraints. Below is a few evaluations of open legal policy in Constitutional Court decisions:

4.1.1. Presidential Threshold Provisions

The decision made involves a critical examination of Law No. 42 of 2008 regarding Presidential and Vice Presidential Elections in relation to the 1945 Constitution. The Constitutional Court identified two main issues from the conflicting regulations:

a. The provision that stipulates Presidential and Vice Presidential Elections shall be held after the elections for members of the House of Representatives (DPR), Regional Representative Council (DPD), and Regional House of Representatives (DPRD), as outlined in Article 3 paragraph (5) of the Presidential Election Law; and
b. The provisions governing the procedures and requirements for nominating presidential and vice presidential candidates, as set forth in Articles 9, 12 paragraphs (1) and (2), Article 14 paragraph (2), and Article 112 of the Presidential Election Law.

The Constitutional Court believes that Article 9 of the Presidential Election Law, which sets forth the qualifications for candidate pairs in the election, is a rule related to the political party vote thresholds needed for nominating presidential and vice presidential candidates. This rule falls under the jurisdiction of legislators and is in accordance with the 1945 Constitution of Indonesia. The Court has decided to let lawmakers have control over the presidential qualification requirements, with the application of these requirements dependent solely on the lawmakers' willingness. The 1945 Constitution's Article 6A paragraph (2) states that presidential and vice presidential candidates must be nominated by political parties or coalitions before general elections, without mentioning any specific threshold for presidential candidates.

Talking about the ruling of the Constitutional Court, having simultaneous elections does not mean that the presidential threshold for nominating candidates in the upcoming elections will be removed. The debate surrounding this issue weighs the positives and negatives of having a presidential threshold. With simultaneous national elections, there would be significant alterations to the presidential threshold, rendering it obsolete since all eligible political parties can now nominate candidates for President and Vice President. It may even include independent Presidential candidates (Satriawan & Lailam, 2019). According to Isra (2014), the Constitutional Court's decision to keep the presidential threshold for nominating

Presidential and Vice Presidential candidates intact has limited significance, as the meaning of simultaneous elections in Article 22E Paragraphs (1) and (2) of the 1945 Constitution has been restored. As a result, the minimum threshold for candidate nomination no longer holds importance. This implies that any political party meeting the criteria for participating in the election has the opportunity to nominate individuals for the positions of President and Vice President as outlined in Article 6A Paragraph (2) of the 1945 Constitution.

In this situation, if every political party in an election put forward their own candidates, the amount of candidate pairings would significantly increase. In order to avoid a large number of candidates, it is important to maintain strict rules for political parties involved in elections. With the number of political parties in the 2014 Elections in mind, there would only be up to 12 candidate pairings in the first round of presidential elections, giving voters a good variety of choices. Saldi Isra's view is that alternative figures nominated by both large and small parties would emerge in the 2019 Presidential Election contest, and perhaps these unconventional candidates will be favored by the public. In contrast, the absence of minimum requirements for presidential candidacy grants equal rights to all political parties under the law and constitution, allowing them to collaborate with one another. Political parties have the ability to come together to select candidates for President/Vice President or when creating cabinets. The presidential threshold in elections does not aim to create a stable government or strengthen the presidential system. These goals are better accomplished post-election by the President/Vice President through organizing their cabinet and forming coalitions with other political parties to ensure government support.

4.1.2. The Crime of Adultery in Decision No. 46/PUU-XIV/2016

The controversy resurfaced in society after the Constitutional Court's Decision Number 46/PUU-XIV/2016 concerning the review of Article 284 of the Criminal Code, which dismissed the effort to broaden the definition of adultery. This definition had previously applied only to married individuals committing adultery, despite evidence that extramarital affairs (such as those among teenagers) have indeed harmed societal and family structures. In their appeal, the petitioners sought clarification on the moral offenses outlined in Articles 284, 285, and 292 of the Criminal Code (KUHP). Five judges from the Constitutional Court expressed that the essence of the petition involved creating new criminal offenses, which would significantly alter who could be prosecuted, the actions subject to punishment, the criminal nature of those actions, and the associated penalties. The problem has now become part of criminal policy discussions. The Constitutional Court found that the petitioners' claims had no legal basis. In its rationale, the Court noted that the petition essentially called for an expansion of scope that no longer aligned with societal needs, which could lead to shifts in fundamental criminal law principles and basic concepts related to criminal conduct.

In this Decision, the Constitutional Court emphasized that the power to expand criminal offenses lies with the lawmakers, effectively assigning the responsibility of criminal regulation to them (open legal policy). The Court clarified that its considerations do not imply a rejection of the concept of "renewal" or suggest that the current criminal law provisions in the Criminal Code are exhaustive. It merely indicated that the provisions in the Criminal Code that were challenged by the applicants do not conflict with the 1945 Constitution. Whether these provisions require addition is solely within the purview of lawmakers as part of their criminal policy, which relates to criminal law politics. Consequently, the renewal proposals put forth by the applicants should be directed to lawmakers, serving as significant input for them during the process of formulating a new Criminal Code. In this ruling, there were opposing views from Constitutional Judges Arief Hidayat, Anwar Usman, Wahiduduin Adams, and Aswanto. They argued that if this situation is allowed to persist or if it is treated as an open legal policy dictated

by the shifting dynamics of political power, then the Constitutional Court would essentially be permitting, or at least tacitly accepting, the existence of legal norms within laws and judicial decisions that lack alignment with, and may even contradict, religious values, divine principles, and the living law of Indonesian society. Meanwhile, the Supreme Court, as a peer in the judicial branch, along with several Indonesian criminal law experts and the government involved in the drafting and discussions surrounding the Criminal Code Bill, have long fought for and taken concrete steps to align by declaring that sexual intercourse outside of marriage is fundamentally wrong. Adultery is a heinous act that goes beyond corrupting the institution of marriage. As such, we should revert the responsibility level of adultery under Indonesian Criminal Law Order to what it used to be before it got reduced by the Dutch East Indies Colonial Government on the basis of *Wetbook van Strafrecht* and concordance principle, in order to restore it to its initial stage. Thus, the term adultery must encompass both forms of sexual immorality. By this, it traps not just the married offenders but also the unmarried ones.

The researcher believes that criminal law policy should include the requested articles, and the Constitutional Court should not interfere with norm formation. However, the Constitutional Court has been known to establish new legal norms in other rulings, as seen in Decision No.48/PUU-IX/2011. This decision reviewed the Narcotics Law No.35 of 2009 and Constitutional Court Amendment Law No.8/2011. The Court found Article 57 paragraph (2a) to be inconsistent with the 1945 Constitution, rendering it legally unenforceable.

Article 57 states that Constitutional Court rulings declaring parts of laws to be contradictory to the 1945 Constitution will not be legally binding. It also mentions that laws failing to adhere to constitutional provisions for formation will not have legal force. Additionally, Constitutional Court decisions should not include new verdicts, commands to lawmakers, or norm formulations as substitutes for unconstitutional laws. Decisions to grant petitions must be published within 30 days in the State Gazette of Indonesia. The provision in Article 57 paragraph (2a) indicates that the Constitutional Court acts as a negative lawmaker, solely responsible for annulling norms in legislation, rather than creating new legal norms or laws.

In the practice of the Constitutional Court, there has been a notable change in the role of the Court from simply invalidating legal norms to actively creating them. The reasoning behind the Court's decision to invalidate Article 57 paragraph (2a) of Constitutional Court Amendment Law No.8/2011 is that it goes against the core mission of the Constitutional Court, which is to uphold the law and justice as outlined in the 1945 Constitution of Indonesia. This particular article hinders the Constitutional Court from (i) assessing the constitutionality of norms; (ii) addressing legal gaps caused by its decisions declaring a norm unconstitutional and without legal force. Due to the lengthy process of legislation, these legal gaps cannot be immediately filled; (iii) fulfilling the duty of constitutional judges to investigate, embrace, and comprehend the legal principles and notions of justice prevailing in society.

In both categories of regulations, the Constitutional Court's ruling explicitly mentions that it reflects a choice made by lawmakers (known as open legal policy). Within Constitutional Court decisions, the concept of open legal policy often reveals a division within the Court, with one faction leaning towards a more proactive judicial approach and the other favoring a more restrained judicial approach. The concept of judicial activism was initially coined by Arthur Schlesinger in a January 1947 issue of Fortune magazine. Schlesinger further explained that in certain instances, the legislature may not take action to address an issue in legislation until it begins negatively impacting society, at which point the court needs to intervene promptly (Kmiec, 2004). The judiciary engaging in activism involves the court creating and evolving

principles from constitutional texts and prior rulings in order to uphold the core values of the constitution as society changes (Faiz, 1970).

In simpler terms, judicial activism is utilized to prevent long gaps in the law while awaiting legislative action. Unlike judicial restraint, this approach prevents courts from assuming the role of a legislative body. Originating in the United States, this concept upholds the idea of dividing powers among branches of government. A type of court activity that resembles legislative action is the establishment of new legal standards during a judicial review proceeding (Dramanda, 2016). Judicial activism has evolved from being viewed negatively and with restrictions to being seen in a positive light. Despite this shift, criticism of judicial activism remains closely linked to concerns over its impact on democracy and the separation of powers. Marshall (2005) highlighted the potential dangers of judicial activism with his concept of the "Seven Sins of judicial activism.

Despite this, human rights activists and supporters of democracy often support judicial activism, believing it is necessary for the law to evolve and adapt to changing social norms. They argue that by building upon constitutional principles and past court rulings, the judiciary can uphold the fundamental values enshrined in the constitution in a progressive manner (Buck, 2007). For instance, Canon (1982) suggests 6 ideas and overall frameworks that frequently serve as points of reference for judicial activism.

a. Majoritarianism: Investigating how policies that have been implemented through the democratic process may be challenged by the judicial process;
b. Stability of Interpretation: Examining the consistency of previous court decisions and interpretations;
c. Adherence to Interpretation: Describing how the constitution may be interpreted differently than intended by its framers or from the language used;
d. Distinction Between Substance and Democratic Process: Analyzing whether court decisions create new policies or uphold those determined by the democratic process;
e. Policy Specificity: Assessing how court decisions may create policies that conflict with the principles of other institutions or individuals;
f. Role of Alternate Policymakers: Examining whether court decisions adequately consider the perspectives of other government bodies when making decisions.

In practice, the Constitutional Court's use of open legal policy arguments shows inconsistency. On one hand, the Court tends to use the judicial restraint approach, while on the other hand, it applies judicial activism. This unclear benchmark creates confusion in assessing the constitutional basis of an open legal policy-based decision.

Based on their legal consequences, Constitutional Court decisions are divided into three types: declaratory (legal statements), constitutive (revoking or forming new legal norms), and condemnatory (imposing sanctions). Generally, in judicial review of laws, the Constitutional Court issues declaratory or constitutive decisions. Declaratory decisions state that a norm contradicts the 1945 Constitution, while simultaneously creating a new legal situation through the elimination of that norm.

Constitutional Court Decision No. 90/PUU-XXI/2023 regarding the age limit for presidential and vice-presidential candidates caused controversy because it was only approved by three judges, while four other judges submitted dissenting opinions. Although decision-making should be through deliberation or majority vote, in this case, the decision was made unilaterally without such procedure, causing a legal antinomy, which is a contradiction between principles and practice. This decision is considered to violate the principles of judicial integrity and independence (Mawangi, 2023).

Previously, in case No. 29/PUU-XXI/2023, the Constitutional Court affirmed that the presidential candidate age limit falls within the realm of open legal policy. However, in case No. 90, the Court actually set aside this principle and changed its position on the same day, without a consistent argumentative basis. This shows the Court's inconsistency in applying the open legal policy doctrine and selective tendency toward judicial activism.

The Constitutional Court even cited trial facts from previous cases (No. 29, 50, and 51), but had previously ignored these facts in those decisions themselves. Comparisons of minimum presidential candidate ages in other countries that were previously rejected were actually used in this case, showing a double standard in decision-making.

Furthermore, a conflict of interest arose because the Chief Justice of the Constitutional Court, Anwar Usman, did not recuse himself from the case despite having family relations with Gibran Rakabuming, who was mentioned as the benefiting party. This action contradicts Article 17 paragraph (5) of Law No. 48 of 2009 on Judicial Power, which requires judges to recuse themselves if they have direct or indirect interest in the case (Mawangi, 2023).

From the previous description, it can be concluded that the Constitutional Court (MK) showed inconsistency in decision-making, particularly in Decision No. 90/PUU-XXI/2023. This is evident from three previous decisions that tested the same article, used similar legal considerations, and ended with identical verdicts, namely rejecting the petition entirely. However, in decision No. 90, the Court took a different stance, raising serious questions regarding the consistency and legitimacy of this constitutional judicial institution.

When analyzed using H.D. Stout's theory of authority, authority is the entirety of rules regarding the acquisition and use of power by public law subjects in the context of public law. There are three ways to gain authority: through attribution, delegation, and mandate. Attribution refers to authority that is specifically granted by law to a specific institution or position. For example, the power to set age requirements for presidential and vice-presidential candidates is a type of legal authority that belongs to lawmakers, not the judicial system. Therefore, the Constitutional Court should not take over the legislative function by changing or adding new legal norms that are the domain of the DPR (House of Representatives) together with the President.

Furthermore, in that ruling, the Court's position goes against the idea of trias politica put forward by Montesquieu. Trias politica suggests that dividing state powers into three branches with equal standing—the legislative, executive, and judicial—allows for checks and balances among them. The legislative branch is tasked with making laws, the executive with implementing laws, and the judiciary with adjudicating law violations. Centralization of power in one institution has the potential to give birth to arbitrary actions, which contradicts the principles of constitutional democracy.

Therefore, the Constitutional Court's intervention in the realm of lawmakers' authority through decision No. 90/PUU-XXI/2023 deserves criticism. Not only because it deviates from the legal principle of authority according to H.D. Stout, but also because it violates the principle of separation of powers that forms the foundation of the modern rule of law.

4.2. Compatibility of the Open Legal Policy Concept in Constitutional Court Decision Number 90/PUU-XXI/2023 on the Age Limit for Presidential and Vice Presidential Candidates with the Open Legal Policy Concept in Indonesian Constitutional Law

The formation/creation of laws is essentially an arbitrary action. There is no basis or foundation governing what will be the content of a law. The criteria for whether certain material is appropriate to be regulated in law is the initiative domain of the legislators, namely the House of Representatives (DPR) and the President jointly. The assessment of whether

certain material or events need to be regulated in law or not is a moral and sociological judgment. For example, murder has been considered by society as evil (*mala in se*) from the beginning and is then prohibited by law (e.g., the Criminal Code). Yet, there are certain acts that were initially not considered crimes but were later declared by law as criminal acts (*mala prohibita*), such as vagrancy.

The freedom of lawmakers to choose material to be made into law must be regulated to create consistency between laws and legal certainty. To ensure that two or more laws do not regulate the same thing differently, certain norms are agreed upon to serve as references/foundations. In the perspective of positivism, Hans Kelsen refers to this as the theory of norm hierarchy (*Stufenbau Theori*), and Hans Nawiasky calls it the theory of legal norm hierarchy (*die Theorie vom Stufenordnung der Rechtsnormen*) (Soeprapto, 2007).

The ideas of Hans Kelsen, refined by Hans Nawiasky, affirm that lower legal norms must be formed based on higher legal norms. The higher the position of a norm, the more abstract its nature; conversely, lower norms are more technical. To ensure this hierarchical relationship, Indonesia's legal system implements a mechanism for judicial review of legislation. There are two forms of review: first, the review of laws against the 1945 Constitution, which is the authority of the Constitutional Court (MK), and second, the review of regulations below the law against the law, which is the authority of the Supreme Court (MA). The review of laws is called constitutionality testing because the 1945 Constitution functions as a command norm, while the law serves as an implementing norm.

As implementing norms, laws must be more technical and narrow compared to the 1945 Constitution. A law is considered constitutional if it technically interprets the norms of the 1945 Constitution so that they can be applied in legal practice. In constitutional review, legal norms can be declared as conforming to, not contradicting, or contradicting the 1945 Constitution. A norm is considered contradictory if its content opposes the will of the 1945 Constitution, either to a minor or major degree, and therefore loses its binding legal force.

The categories "conforming" and "not contradicting" are often considered similar but have important differences. "Conforming" means the legal norm is formed based on an explicit command of the 1945 Constitution without room for other interpretations, such as the establishment of the Election Commission directly ordered by Article 22E of the 1945 Constitution. Meanwhile, "not contradicting" refers to legal norms that regulate matters not specifically regulated in the 1945 Constitution but are also not prohibited, such as the regulation of the size of the Garuda Pancasila emblem in Law Number 24 of 2009. The norms in the 1945 Constitution itself are generally formulated in a concise and general manner as the basic law of the state.

The general and concise formulation of the 1945 Constitution facilitates reading but makes it difficult to understand the intent of its norms. In judicial review, the difference in concretization levels between the abstract norms of the 1945 Constitution and the technical norms of laws creates issues of compatibility between them. Therefore, the norms of the 1945 Constitution must first be interpreted to be at a concrete level equivalent to the legal norms, thus enabling substantive comparison by the Constitutional Court. Constitutional review requires two types of interpretation: of the constitution and of the law, both aimed at discovering the meaning of norms. Although their objects differ, the interpretation methods can be the same, such as grammatical, systematic, historical, teleological, and hermeneutic. Grammatical interpretation, for example, interprets the meaning of norms based on the literal meaning of words as commonly understood in society (Mertokusumo & Pitlo, 1993).

Systematic interpretation is a way of finding the meaning of a particular article, paragraph, and/or phrase by connecting that article, paragraph, and/or phrase with all

provisions in the same legislation, or by connecting it with different legislation that regulates the same matter. Historical interpretation is a way of finding the meaning of a provision by seeking and understanding the background of the emergence of that provision. This background includes societal conditions, the spiritual atmosphere of the lawmakers, ideological trends, and so forth. Understanding the conditions or atmosphere behind the emergence of a legal provision will provide clues about the intention of the legal provision in question. Teleological interpretation seeks to understand the meaning of a legal provision by relating the provision to the purpose or intention of the formation of the legislation. From a teleological perspective, every legislation certainly has a purpose for its preparation, and therefore the meaning or significance of an article, paragraph, or part of an article and paragraph must not be detached from the purpose of forming the legislation in question.

The interpretive method that encompasses all these types of interpretation methods is hermeneutic interpretation. In hermeneutics, a dialogue occurs from various perspectives regarding the legal provisions whose meaning is being sought. To understand the meaning of a provision, the hermeneutic method invites the interpreter to understand the text, understand the context, and then contextualize (Sumaryono, 1995).

Legal argumentation is essentially a tapestry of legal (scientific) logic that leads to a legal conclusion. Constitutional Court decisions are legal arguments that contain scientific explanations regarding opinions or assessments of whether there is compatibility or incompatibility between the norms of a law being reviewed and the norms of the 1945 Constitution that are used as benchmarks. In its simplest form, it can be said that the Constitutional Court's legal argumentation is a comparison between the interpretation of the legal norms being reviewed and the interpretation of the 1945 Constitution norms that serve as benchmarks. Interpreting the meaning of laws and the 1945 Constitution that serves as a benchmark has different levels of difficulty. Interpreting the meaning of laws is relatively easier compared to interpreting the meaning of the 1945 Constitution because laws have explanatory sections, which, although not always clear, at least have a general explanation sub-section that can be used as an initial foothold in tracing meaning.

As for the 1945 Constitution, since the amendments to the 1945 Constitution in 1999, it is no longer accompanied by an Explanation of the 1945 Constitution. Given that the Constitutional Court reviews laws against the 1945 Constitution, or in other words, matches or seeks compatibility between legal norms and the norms of the 1945 Constitution, can it then be said that morality, conscience, and even the ideology of Judges are not important? If referring to the norm hierarchy theory of Hans Kelsen and Hans Nawiasky, then judges do not need to include moral judgments in judicial review (Dimyati, 2018).

This is a consequence of the norm hierarchy theory which stipulates that a norm is considered correct if it conforms to another norm of a higher level, so constitutional review is "merely" matching legal norms with the norms of the 1945 Constitution. Hans Kelsen firmly states that moral norms and legal norms are two different domains, so the review of laws must be detached/separated from their moral content. Moreover, conceptually, the constitutional court is a judicial institution born from the concept of norm hierarchy that is tasked with ensuring that the norms of various kinds of legislation have been arranged according to their hierarchy. Laws are legislation formed by the DPR together with the President.

The formation of laws is basically arbitrary, meaning that lawmakers have the freedom to decide what matters/actions will be regulated in a law and how they will be regulated. Even if there are restrictions on the arbitrary nature of lawmakers, such restrictions are actually formulated or regulated by the lawmakers themselves. In other words, through the laws they

form, lawmakers are free to regulate society as well as free to determine the limits of their freedom in regulating society.

The Constitutional Court has identified certain legal provisions as examples of open legal policy, meaning they align with the 1945 Constitution and fall under legislative discretion. First introduced in Decision No. 10/PUU-III/2005, the term "open legal policy" (*kebijakan hukum terbuka*) reflects the Court's view that such norms are constitutionally valid. While the concept is relatively new in legal studies, it has roots in public policy discourse, where terms like public, social, and communitarian policy are more commonly used (Subarsono, 2012).

In public policy science, the concept of policy inherently implies a sense of freedom or openness, as it typically involves officials or authorized parties making decisions that are not explicitly governed by laws. This contrasts with the notion of "openness" in the realm of creating laws. Law gains its validity because it always maintains consistency or conformity between norms. Legislation has an obligation to always be consistent and ensure that there are no collisions that result in mutual nullification between legal norms.

In addition to the formation of laws that must have consistency, Constitutional Court decisions must also always be consistent in each of its decisions, as in decision number 90/PUU-XII/2023. As previously described, the decision in number 90/PUU-XII/2023 is a decision that is characterized as open legal policy, because previously there were three decisions with the same test article, which in previous decisions contained verdicts rejecting the applicant's petition entirely. Therefore, in decision number 90/PUU-XII/2023 with a verdict partially accepting the applicant's petition, there was a dissenting opinion among the judges. The dissenting opinion includes that of Constitutional Judge Arief Hidayat, who argued that determining the minimum age requirement for Presidential and Vice Presidential candidates is a straightforward matter, as the 1945 Constitution does not strictly regulate it. Therefore, this is categorized as an open legal policy (opened legal policy) whose regulation is left to the lawmakers. There are several previous Constitutional Court decisions that are important to cite regarding the determination of minimum or maximum age limits, including, among others, the age requirements for regional leaders, the age restrictions for leading the Corruption Eradication Commission (KPK), and the issue of transparent legal guidelines:

a. Decision Number 15/PUU-V/2007, dated November 27, 2007, related to the minimum age requirement for regional head candidates.
b. Decision Number 37-39/PUU-VIII/2010, dated October 15, 2010, related to the minimum and maximum age limits for the leadership of the Corruption Eradication Commission (KPK).
c. Decision Number 51-52-59/PUU-VI/2008, dated February 18, 2009, the Court held that the legal policy products of lawmakers cannot be canceled, unless they clearly violate morality, rationality, and intolerable injustice.

From these three example decisions, the focus of the Constitutional Court is on the fact that the 1945 Constitution does not lay down specific age limits for holding public office or participating in governmental activities. Instead, the Constitution delegates the authority to set age limits to the legislators. Essentially, the 1945 Constitution views age limits as within the jurisdiction of lawmakers as part of their legal framework. Consequently, age requirements for different government roles are established in different laws and regulations based on the specific requirements of each position. The Court, as the defender of the constitution, does not have the power to strike down a Law or its parts if it reflects a valid delegation of authority that aligns with the lawmakers' legal policy. Even if specific aspects of a Law are seen as problematic, such as the regulations on presidential thresholds and election timing in this

instance, the Court cannot remove them unless the legal policy directly contradicts morality, reasonableness, and severe unfairness.

Additionally, Constitutional Judge Arief Hidayat discussed the constitutionality problem regarding the minimum age eligibility for someone to run as a presidential candidate or vice presidential candidate, particularly focusing on procedural law. Below, various instances outlined.

a. Case Number 29/PUU-XXI/2023, registered on March 16, 2023, at 10:00 WIB, filed by the Indonesian Solidarity Party and several Indonesian citizens who have the same interests, essentially asking the Court to lower the age limit requirement to become a Presidential Candidate and/or Vice Presidential Candidate from the original 40 years to 35 years.
b. Case Number 51/PUU-XXI/2023, registered on May 9, 2023, at 10:30 WIB, filed by the Garuda Party, essentially asking the Court for an alternative to the minimum age requirement of 40 years to become a Presidential Candidate and/or Vice Presidential Candidate, namely having experience as a Regional Head/Deputy Regional Head.
c. Case Number 55/PUU-XXI/2023, registered on May 17, 2023, at 09:00 WIB, filed by Erman Safar (Mayor of Bukit Tinggi 2021-2024), Pandu Kusuma Dewangsa (Deputy Regent of South Lampung 2021-2026), Emil Elestianto Dardak (Deputy Governor of East Java 2019-2024), Ahmad Muhdlor (Regent of Sidoarjo 2021-2026), and Muhammad Albarraa (Deputy Regent of Mojokerto Period 2021-2026), essentially asking the Court for an alternative to the minimum age requirement of 40 years to become a Presidential Candidate and/or Vice Presidential Candidate, namely having experience as a state administrator.
d. Case Number 90/PUU-XXI/2023, registered on August 15, 2023, at 13:30 WIB, filed by Almas Tsaqibbiru Re A who has the status of a Student, essentially asking the Court for an alternative to the age limit requirement to become a Presidential Candidate and/or Vice Presidential Candidate, namely having experience as a regional head either at the Provincial or Regency/City level.
e. Case Number 91/PUU-XXI/2023, registered on August 15, 2023, at 14:00 WIB, filed by Arkaan Wahyu Re A who has the status of a Student of the Law Study Program, Faculty of Law, Sebelas Maret University (UNS) Surakarta, essentially asking the Court to lower the minimum age requirement to become a presidential candidate and vice presidential candidate, namely to be 21 years old.

While various instances have brought up the same constitutional issue about the minimum age for presidential and/or vice-presidential candidates, this examination specifically looks at five crucial cases. The fundamental constitutional inquiries mainly stem from Cases No. 29/PUU-XXI/2023, 51/PUU-XXI/2023, and 55/PUU-XXI/2023, which were considered and resolved simultaneously during full meetings. On the other hand, Cases No. 90/PUU-XXI/2023 and 91/PUU-XXI/2023, despite being presented later, were swiftly decided. In terms of procedure, Article 54 of the Constitutional Court Law states that the Court has the option to request details from government bodies, illustrating a discretionary aspect. Since the initial three cases were already thoroughly assessed, the Court was able to make direct judgments on the latter two cases.

The dissenting opinion from Constitutional Judge Suhartoyo in this case provides an explanation about Article 169 letter q of the Law which regulates one of the requirements to become a presidential candidate and vice president, namely the age limit. Suhartoyo states that the regulation regarding age limits for presidential and vice presidential candidates is very

common by lawmakers in many countries, because the positions of president and vice president are essentially different from other positions based on lineage (such as King or Sultan). The positions of president and vice president are based on ability, experience, and national consensus which are generally obtained through a general election process.

Furthermore, Suhartoyo conveys that the regulation of age limits will be complex, especially if regulated specifically with minimum or maximum numbers. He suggests that such regulation should be carried out with clear consideration, although it is often done tendentiously to obstruct or benefit certain parties. In this context, Suhartoyo believes that the drafters of the third amendment to the 1945 Constitution have democratically endeavored to produce the best regulation, which separates two types of requirements: constitutional requirements enshrined in Article 6 paragraph (1) and requirements that can be further regulated by law, according to Article 6 paragraph (2).

Suhartoyo then identifies three crucial issues in the review of Article 169 letter q of the Law, namely the age limit, a certain minimum age (40 years), and experience as a Regional Head. He argues that these three issues are not constitutional requirements contained in Article 6 paragraph (1) of the 1945 Constitution, but rather are open legal policy choices that should be further regulated by the lawmakers, as regulated in Article 6 paragraph (2) of the 1945 Constitution.

In a further dissenting opinion, Constitutional Judge Suhartoyo argues that although the open legal policy given to lawmakers needs to be limited to ensure constitutional supremacy, there are several conditions where the Court needs to examine and decide on the constitutionality of norms that are part of this open legal policy. This is relevant if these norms violate morality, injustice, contradict the 1945 Constitution, or contradict fundamental principles such as political rights or people's sovereignty.

Suhartoyo argues that in the context of Article 169 letter q of the a quo Law which regulates age limits and certain experiences for presidential and vice presidential candidates, the only constitutionality issues are related to political rights and the principle of people's sovereignty. Because these requirements are open legal policies regulated by lawmakers and thus do not lead to constitutional violations, as long as they are still within the legitimate corridor to be further regulated by law as stipulated in Article 6 paragraph (2) of the 1945 Constitution.

Furthermore, Suhartoyo assesses that the petition submitted by the Petitioner is actually not solely to ensure the Petitioner's political right to be elected as a presidential or vice presidential candidate, but rather on the endeavor so that the Petitioner's political right to vote (in General Elections) is not obstructed because the desired candidate does not meet the requirements. Therefore, according to him, there is no constitutional issue related to age restrictions or certain experiences in Article 169 letter q of the a quo Law, because it is an open legal policy that can constitutionally be further regulated by lawmakers.

In Constitutional Court Decision Number 90/PUU-XXI/2023 regarding the age limit for Presidential and Vice Presidential candidates, the application of the Open Legal Policy concept is considered inconsistent with the meaning of open policy itself, which should provide space for lawmakers (in this case, the legislative institution) to determine further provisions regarding these nomination requirements. Article 6 paragraph (2) of the 1945 Constitution states that the qualifications for President and Vice President are to be determined by law, allowing the legislature to set these requirements. However, the Constitutional Court has decided to intervene and make rulings on issues related to this flexible legal provision.

Based on Montesquieu's Trias Politica theory, state power is divided into three equal branches: the Legislative (law-making), Executive (law-enforcing), and Judiciary (law-interpreting), to ensure checks and balances and prevent abuse of power. Hence, if the Constitutional Court intervenes in matters reserved for the legislature such as setting age requirements for presidential candidates under open legal policy, it may conflict with the fundamental principle of separation of powers in a state governed by the rule of law.

In addition, the theory of authority according to H.D. Stout which suggests that authority encompasses all rules concerning the acquisition and use of government authority, also teaches that state institutions must be consistent with their respective authorities. The legislature, rather than the Constitutional Court, holds the power to stipulate the qualifications needed for presidential and vice presidential candidates. The Constitutional Court, as an institution that tests constitutionality, should maintain consistency in its authority and not exceed the limits of its authority, especially in matters included in open legal policy. Thus, the application of the open legal policy concept in this decision contradicts the trias politica theory and authority theory, each of which supports the division of authority between state institutions that must be respected to prevent abuse of authority and imbalance of power.

5. Conclusion

From the previous discussion, it can be concluded that the application of the concept of open legal policy in Constitutional Court Decision Number 90/PUU-XXI/2023 regarding the Age Limit for Presidential and Vice Presidential Candidates shows inconsistency of the Constitutional Court in deciding cases. Although there are three decisions with the same legal considerations and verdicts, Constitutional Court Decision No. 90/PUU-XXI/2023 is different. This contradicts H.D. Stout's theory of authority, which states that authority can be obtained through attribution, delegation, and mandate. The Constitutional Court should not take over legislative authority in cases that are open legal policy in nature. In addition, this is also not in accordance with Montesquieu's theory of trias politica, which divides state power into Legislative, Executive, and Judicial branches, with each having functions that balance each other.

The application of the open legal policy concept in Constitutional Court Decision No. 90/PUU-XXI/2023 is also inconsistent with the meaning of open legal policy itself, which should be further formulated by law according to Article 6A paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Therefore, the Constitutional Court's decision contradicts Montesquieu's concept of trias politica and H.D. Stout's theory of authority, which emphasize a clear division of authority between state institutions.

As a suggestion, the Constitutional Court should be more consistent in deciding cases, especially those that are open legal policy in nature, in accordance with previous decisions. In addition, it is important to strengthen the capacity of Constitutional Court judges to better understand the authority and division of powers in the Republic of Indonesia in accordance with the constitution, namely the 1945 Constitution of the Republic of Indonesia.

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