



## **RATIO LEGIS REQUIREMENTS FOR SENIOR HIGH SCHOOL EDUCATION (SMA) OR THE EQUIVALENT FOR PRESIDENTIAL CANDIDATES AND VICE PRESIDENTIAL OF THE REPUBLIC OF INDONESIA**

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### **Abstract**

The purpose of this research is to understand and analyze the ratio legis setting the minimum education requirements for senior high school or its equivalent for a presidential candidate from the study of treatises on discussing educational needs as well as to find out the conditions that can be used in determining the ability of a presidential candidate. The research method used by the author is a normative legal research method, by researching principles, synchronization, systematics, and legal comparisons. The author uses this type of normative legal research because, in formulating the problem, the author emphasizes the legal ratio to the educational requirements of a presidential candidate in Law No. 7 of 2017 concerning General Elections. This is influenced by the emergence of the author's curiosity about reasoning (ratio legis) from the minimum requirements for senior high school school or the equivalent for presidential candidates in Law No. 7 of 2017 concerning General Elections. The Indonesian House of Representatives is expected to be able to reformulate the development of regulations on educational requirements for presidential and vice-presidential candidates in Indonesia. The burden of duties carried out by a president certainly requires more ability to carry out the mandate that the people have entrusted to him in leading the running of the government. In this case, education is one of the components to assess a president's competence and ability.

**Keywords:** *Educational Requirements for Candidates for President and Candidates for Vice President.*

### **1. INTRODUCTION**

The state is the highest organ in organizations or several groups hoping to unite and grow in a region with a sovereign government. Apart from being one of the main elements, sovereign government is the most crucial element in a country. The government's ability to run the wheels of government and protect its citizens will affect the existence of a country in international relations. A country that can provide security, welfare, and justice for its people will be respected and considered a strong and developing country. On the other hand, a country that cannot carry out its governmental duties properly, such as not being able to protect its citizens from internal and external threats, rampant corruption, not being able to provide adequate public services, and so on, will be considered a weak country and less stable. This will affect the country's reputation in the eyes of the international community, especially in terms of investment and economic relations with other countries. Countries considered weak will find it easier to attract attention and have more difficult diplomatic relations with other countries. Therefore, the government's ability to carry out its duties properly is essential in determining the existence of a country in the international world.

There needs to be more than a leader in a country to deliver a country achieving its goals. The more critical factor is the competence of the leader. Competency, in this case, means capable, capable. Competence to manage, in this case, means leaders' ability to manage, organize, plan, coordinate, actualize, and supervise the public organs they lead. The competencies that a leader must possess are at least seven, namely:

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1. Competence to manage themselves;
2. Competence in managing communication;
3. Competence to manage diversity;
4. Competence to manage ethics;
5. Competence in managing the team;
6. Competence in managing cultural diversity; and
7. Competence in managing change.

A leader must carry out four strategies, including thinking and acting generalist, continuing to learn, and prioritizing ways of thinking that are integralist, strategic, and problem-solving oriented; besides that, a leader must also be entirely concentrated. Strategies that a leader may apply in managing pluralism include becoming the coordinator and integrator of the various components of the organs they lead so that they can move as a totality and not allow their way of thinking and acting to be categorized. These include steps that a leader must have, namely developing openness, prioritizing service as the main focus in the public sector, and being accountable, more responsive, and assertive. The success of an organization in achieving its goals must be balanced with the quality of its leaders, moreover, in a top organization like the state. The importance of a leader is at least because, first, as a determinant of the direction to be taken by the state in achieving its goals. Second, a mediator who is mainly involved in overcoming conflicts between one group and another within the organization (country) he is leading. Third, a rational and objective integrator. Fourth, an effective communicator and representative of a country when dealing with other countries.

There needs to be more than the presence of a leader in a country to deliver its goals. A more critical factor is a leader's competence, especially in a country with more challenging demands. A leader must manage his human resource management well, including paying attention to all needs to achieve the country's goals. The public sector is more complex and straightforward than the private sector. Apart from seeing the need for efficiency and effectiveness, it is also necessary to maintain human values such as justice, people's sovereignty, protection of human rights, and accountability. Leadership in terms of overcoming change, of course, emphasizes the vision of its leadership. Thus, leaders must provide innovation more than just carrying out administrative tasks, which incidentally are carried out by a manager. Leaders who have competence are those who have extensive knowledge, curiosity, in-depth analytical skills, and above-average cognitive and reasoning abilities. An axiom that theorists and practitioners generally accept is that the higher the position in an organization, the more one is required to be able to think. A leader can only own this thinking ability with extensive knowledge, especially in the discipline of expertise regarding achieving organizational goals.

To understand various kinds of state problems, a leader must seek extensive knowledge and understanding of different scientific disciplines related to the goals, strategies, plans, and activities of the state he leads. In other words, a leader must recognize the "forest" where he is, not identify the "trees" he likes in the forest. For example, a president who thinks generalists will look at his employees and people as a whole, not just see the employees and people who support him to become president. As a constitutional state, Indonesia has a constitution that regulates the rights and obligations of its citizens and provides legal guarantees and protection to all its people. However, even though Indonesia is considered a legal state, it still has various problems. Therefore,



more extraordinary efforts are still needed to strengthen the legal system so people can better experience justice and legal certainty. Of course, in terms of solving various kinds of problems, a competency is needed, one of which is education. Although not the only factor in assessing a person's competence, higher education can give a person a broader knowledge base, sharp analysis, critical skills, and creative thinking to make decisions on many complex issues.

It is stated in Article 169 letter (r) of Law Number 7 of 2017 Concerning General Elections that the requirements for a presidential candidate and a vice presidential candidate have a minimum education of graduating from high school, Madrasah Aliyah, Vocational High School, Vocational Madrasah Aliyah or other forms of education others are equal. The task load that a president then carries out is not easy; he needs more ability to carry out the mandate that the people have entrusted him to lead the government. In this case, education is one of the components to assess a leader's competence and ability. On the other hand, a presidential candidate's ability is seen by assessing the requirements and evaluation by voters through the general election mechanism. One of the conditions related to ability is education. Article 169 letter (r) of Law Number 7 of 2017 Regarding General Elections states that the requirements for a presidential and vice presidential candidate are only limited to a minimum of SMA and SMK equivalent. So, because of that, the question arises as to whether, with the educational requirement only limited to a minimum of high school or other equivalent but with a huge burden, a leader can complete his duties. So that about what the author wants to examine and related to the legal issues of this research, it is necessary to conduct a more in-depth study of the minutes of the trial, which is the background to creating these requirements.

In this study, and from the background of the problems previously described, the author feels it is necessary to carry out a more in-depth analysis of existing rules based on or according to the concept of ratio legis, which in this case, ratio legis is an idea or reasoning behind the reasons for the birth of law, as Bagir Manan has also stressed so that in the process of forming rules and regulations it must be able to produce laws that are strong in quality and have a philosophical, sociological, and juridical basis, specifically regarding the educational requirements of a presidential candidate in statutory regulations, in this case, Article 169 letter (r) of Law Number 7 of 2017 Concerning General Elections.

## 2. PROBLEM FORMULATION

1. What is the Ratio Legis setting for a minimum high school education requirement or its equivalent for a presidential candidate from the treatise study discussing educational needs?
2. What are the conditions that can be used in determining the ability of a presidential candidate?

## 3. RESEARCH METHOD

This study uses the normative legal research method, which according to Soerjono Soekanto, consists of research on principles, synchronization, systematics, and legal comparisons. The writer uses this type of normative legal research because, in formulating the problem, the writer emphasizes the ratio of the legislature to the educational requirements of a presidential candidate in the General Election Law.

### **3.1 Primary Legal Materials**

Legislation which in this case is Law Number 7 of 2017 concerning General Elections and the Minutes of Session Concerning the Discussion of Educational Requirements for Candidates for President of the Republic of Indonesia;

### **3.2 Secondary Legal Materials**

Theses, Reports, Journals, Papers, and all sources of legal literature related to research legal issues.

## **4. DISCUSSION**

### **4.1 Ratio Legis Regulating Minimum Education Requirements High School or its equivalent for a Presidential Candidate from the Study of the Minutes of Discussion of Educational Requirements.**

This Minutes of Meeting was conducted to update some of the shortcomings of Law no. 23 of 2003 concerning the President's and Vice President's General Election. The Discussion Session was held on July 10, 2007, in the DPR-RI Commission II Meeting Room with the Chairman of the Discussion Meeting, Ferry Mursyidan Baldan/Chairman of the Election Committee, and attended by 34 of the 50 members of the DPR-RI General Elections Committee. There were several factions of political parties in this activity who argued about the educational requirements for candidates for President and Vice President, namely:

- Dr. Ir. Hj. Andi Yuliani Paris, M. Sc from the PAN faction said that regarding the education of the candidates for President and Vice President if we currently push the human development index and the progress of a country to be measured by HDI then one of the variables is education, length of schooling. Then developed countries generally do not list the requirements for presidential candidates, except for six nations, including Africa, Brazil, and Turkey. We all know that the average school or education index in developed and developing countries is quite good. In the context of encouraging value education, we start with the teaching of candidates for President and Vice President. Therefore, the PAN faction pushed for the educational requirements for President and Vice President candidates to have an education of at least a Bachelor's Degree or equivalent. Then another reason that we want to convey has been presented by Golkar, related to effective governance. One of them is that we hope that a President with a Bachelor's Degree education can reference what will result from a policy.
- Drs. Almuzzammil Yusuf from the PKS faction presented material for improving Law Number 23 of 2003 concerning the President's and Vice President's General Election. The PKS faction proposed that the presidential and vice-presidential candidates must obtain at least 15% of seats in the DPR and have met various other eligibility requirements, including taking a minimum education Bachelor's Degree. If this is considered to hinder certain parties, the way out of a Bachelor's Degree is excluded for those who have served as President and Vice President so that we can talk about the future of the nation without being hampered by the actual conditions that exist today without obscuring our perspective on the future development of the country.



- Hj. Badriyah Fayumi, Lc from the PKB faction, said that our education requirements are by the Legislative Election Law and other conditions. The point is that we don't disqualify someone who already has a grassroots leadership base.
- Agus Purnomo, S.Ip from the PKS faction, said that at first, we proposed the Bachelor's Degree with the hope that there was regeneration, and at that time, we predicted that Megawati would not nominate again, frankly so. So, when he later selected us, he lowered the conditions with an exception. So, this is going forward so that we are not suspected and suspected of obstructing someone. This is relatively moderate; at least Bachelor's Degree is excluded for those who have served as president or vice president. Even though later in our internal discussions, there are non-academic aspects that allow someone to have the talent or the provisions to have all kinds of management abilities that are certain to exist in political practice, be it conflict management or management of any kind, anyone can own this. People who have experience occupying leadership positions, for example, maybe the army, or the police, then activists also have teacher activists or other activists, and so on. Now we want to include things like this, it's just that the language of the Javanese people is becoming more widespread and expanding, meaning we are returning to the lowest educated Bachelor's Degree, and those who have served as president or vice president are excluded.
- Dr. Mariani Akib Baramuli, MM from the Golkar faction, said that by looking at the current developments, we have also expressed the opinion that while at the Special Committee, they wanted to seek a diploma or leadership. Therefore, our faction thinks that no matter what, education must have a minimum limit; therefore, our section remains until now that we provide an educational limit, namely having at least a senior high school education. That is our statement from the Golkar faction.
- Pastor Saut M. Hasibuan from the Damai Sejahtera faction said that apart from agreeing with the government, we want to upgrade the government's thinking and improve the government's way of thinking and acting, especially by providing enlightenment to the government. That's why we said it was time for education to be necessary and to lead this nation; the grade for an undergraduate degree was not very high, and that's why we said yes to having an undergraduate education or equivalent. I think this has rational thinking for all, all members of the DPR are educated, and in the future, they will come. In 2009 and so on, people are getting more educated, we must upgrade science and technology, and the state has recognized that there is a grade of education. So that's why we think it would be nice if the undergraduate level is acceptable for future leaders of this nation and state.
- Irmadi Lubis from the PDIP faction said that state officials who carry out non-technical jobs are specific in nature. At the same time, the president is general; managerial skills and leadership ability are more important than just a bachelor's degree or something else.
- Abdullah Azwar Anas from the PKB faction said that education is essential to us. Still, this formal education only guarantees the ability and capability to produce a leader. In the past, great leaders in several countries were independent of their educational level. Therefore, for the National Awakening Fraction, the education delivered by the government is sufficient, which realistically reflects the accommodation for the majority of our nation, who in the past, for example, have been unable to complete their educational strata. But once again, more than that, the argument for the National

Awakening Fraction of formal education strata does not merely guarantee the ability and capability for someone to lead in any sector.

Requirements for president and vice president candidates must have measurable indicators by accommodating intellect, spirituality, leadership, generosity, wisdom, appreciation of life experiences, and others. President and vice president candidates must formulate their vision and mission regarding Indonesia in the future, the ability to manage government, firmness, courage to uphold the law, openness, sensitivity to criticism, and the courage to admit mistakes. The president and vice president are determinants of the nation's future direction. Therefore, it is understandable if there is a demand from the community that the resident and vice-presidential candidates have adequate intellectual abilities, and this can be curated through the level of education they have passed. The president is the most influential position in government because that one person holds the same amount of power as the entire delegation. The president makes political decisions that have not only consequences for his country but for the whole world. However, the requirements for who could become president were minimal, and none related to a required level of education. Until now, one of the requirements for a president was an age limit and a political party. Any other impactful occupation, such as medicine, requires extensive education. However, a doctor is only in charge of a handful of people, whereas the entire country is in the hands of the president. Millions of people need a president to know how to properly handle their land for the well-being of themselves and their children, and the lack of educational requirements to make these crucial decisions makes no sense at all.

Most of the famous presidents have very high levels of education. For example, Bill Clinton attended Yale Law School and is arguably one of the most active and knowledgeable presidents. Nevertheless, some educated presidents like Richard Nixon have corrupted the country. Education does not reduce the possibility of a president hurting the country he leads. Still, an academic president will undoubtedly be able to think more about the country's problems and work harder to fix them. Education does cost money and might preclude someone with less money from becoming president. After all, all other aspects of being president cost millions of dollars. Usually, only middle- or upper-class citizens run for president because of the money needed to campaign and gain support. Cost is no reason not to add requirements to ensure the country is in good hands once the president is elected, not just during the campaign. So, therefore, an educated president has a more "logical" opportunity to guarantee the people's prosperity.

#### **4.2 Terms that can be used in determining the ability of a presidential candidate**

To evaluate the ability of a leader, in particular, in this case, a president, of course, several conditions can be taken into consideration to assess the power of a presidential candidate, namely:

1. Leadership:

A president must provide effective leadership, make the right decisions, and deal with crises wisely. Many people think that leadership cannot be learned because leadership is a talent that people acquire as special innate abilities. So that some people say that there is no need for leadership theory and knowledge because of the lack of a leader with extraordinary natural talent who has the charisma and authority to lead the masses around him. Strictly speaking, a successful leader carries out his leadership without being based on theory or undergoing previous training and



education. Leadership is an unscientific type of leader. He does his leadership because he has the gift of mastering the art of leading (the art of leadership), which is uniquely his own. But in the times, scientific leadership developed, along with the growth of scientific management in the early 20th century, and later developed into a science of leadership. It is no longer based on talent and experience alone but prepares in a planned way and trains new prospective leaders. Everything is done through planning, experimentation, research, continuous analysis, supervision, and systematic training to awaken the qualities of superior leaders to succeed in their duties. The value of leadership is no longer determined by natural talent. However, his ability to move many people to work together, thanks to the influence of his leadership obtained through training and education.

## 2. Public Policy

A president is expected to be able to formulate adequate public policies based on a deep understanding of relevant issues and taking into account the interests of the state. Following are several reasons why understanding public policy is essential for a president:

- a. Effective Decision-Making
- b. Effective Leadership
- c. Community Representation
- d. Policy Evaluation and Improvement
- e. Comprehensive Policy Making

## 3. Communication

The president must communicate clearly and effectively to the public, international leaders, and government members. Politics is often associated with effective communication and factors such as background and the ruling government. Although many politicians depend on the support of the ruling government, it should be realized that a person's political achievements will rely heavily on his ability to communicate with the public. One example of a case experienced by President Obama. Some people believe he is a true politician, while others think he cannot use his communication skills to achieve his political goals.

## 4. Diplomatic Skills

Diplomatic skills relevant to a presidential candidate include aspects that can assist them in carrying out an effective foreign policy and advancing national interests. The following are some of the essential diplomatic skills for presidential candidates in books and opinions that cover the concept of diplomacy in the 21st century and how diplomacy transformations can affect current prudent practices:

- a. Mastery of Foreign Languages
- b. Understanding of Foreign Policy
- c. Negotiation Ability
- d. Knowledge of International Relations
- e. Effective Communication Skills
- f. Firmness in Defending the National Interest
- g. Emotional Intelligence
- h. Openness to Other Cultures and Values
- i. Strong Leadership
- j. Understanding of Digital Diplomacy

## 5. Educational and Experience Qualifications

Educational qualifications and experience are essential assessment factors in evaluating the capabilities of presidential candidates. The education level of a presidential candidate can give an idea of their intelligence and understanding of complex issues, including national and international issues. Adequate education can assist presidential candidates in analyzing problems and finding innovative solutions. Likewise, presidential candidates' leadership experience, especially at the national or international level, can illustrate their ability to face complex political and social challenges. Relevant experience can also assist presidential candidates in understanding governance mechanisms and decision-making processes. Education is the level of education taken by a person. The education referred to in this study is formal and non-formal education. Formal education, namely school education in the form of standardized levels of education starting from elementary school to tertiary education. Education, especially for a presidential candidate, is vital because a person's education will influence their mindset, attitude, and behavior in carrying out an activity. Meanwhile, non-formal education is education obtained through training/seminars. A president can carry out his duties and functions properly as a captain in leading the wheels of government. Therefore, a presidential candidate must attend training/seminars on the main tasks and processes later. Suppose the education you have is different from the field of work. In that case, the training/conference you attend will provide added value in understanding your duties and functions, including supervising government running.

## 5. CONCLUSION

Until now, it is contained in Article 169 letter (r) of Law Number 7 of 2017 concerning General Elections that the requirements for a presidential candidate and a vice president with a minimum of education are at least high school graduation, Madrasah Aliyah, Vocational High School, Madrasah Aliyah Vocational or other equivalent forms of education. It cannot be denied that this issue is closely related to the interests of each political party member representing the political party itself. Some political parties, as stated in the previous explanation, are reluctant to be able to increase the educational requirements for a presidential candidate. The Draft Draft Law on General Elections that was prepared has increased the academic requirements for a presidential candidate in Indonesia. However, until now, it still raises pros and cons similar to the discussion of Law No. 42 of 2008 concerning the previous General Election. Competency is needed to solve various kinds of problems, one of which is education. Although not the only factor in assessing a person's competence, higher education can give a person a broader knowledge base, sharp analysis, critical skills, and creative thinking to make decisions on many complex issues.

The candidates' and vice president's requirements must have measurable indicators by accommodating aspects of intellect, spirituality, leadership, generosity, wisdom, appreciation of life experiences, and others. Candidates for president and vice president must be able to formulate their vision and mission regarding Indonesia in the future, manage government, have firmness and courage to uphold the law, be open and sensitive to criticism, and have the courage to admit mistakes. The president and vice president determine the nation's future direction. Therefore, it is understandable if there are demands from the public that the resident and vice-presidential candidates have adequate intellectual abilities, and this can be curated through the level of education they have passed. The president is the most influential position in government because





that one person holds the same amount of power as the entire delegation. The president makes political decisions that have not only consequences for his country but for the whole world. However, the requirements for who could become president were minimal, and none related to a required level of education. Until now, one of the requirements for a president was an age limit and a political party. Any other impactful occupation, such as medicine, requires extensive education. However, a doctor is only in charge of a handful of people, whereas the entire country is in the hands of the president. Millions of people need a president to know how to properly handle their land for the well-being of themselves and their children, and the lack of educational requirements to make these crucial decisions makes no sense at all.

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