



## An Examination of the Age Restriction of First-Time Voters in Indonesia's Elections From Maqashid Sharia Perspective

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Submitted: August 15, 2024 | Accepted: October 15, 2024 | Published: October 23, 2024

How to Cite (Chicago): Faza, A. M., Putra, D., Mafaid, A., & Rizki, J. W. S. (2024). An Examination of the Age Restriction of First-Time Voters in Indonesia's Elections From Maqashid Sharia Perspective. *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan*, 11(2), 207-225. <https://doi.org/10.32505/qadha.v11i2.9286>.

### Abstract

The age restrictions for first-time voters and the age requirements for electoral candidates in Indonesia have become topics of discussion and debate. One such debate revolves around the Constitutional Court's (MK) Decision Number 90/PUU-XXI/2023, which allows individuals under 40 years of age to run for president (capres) or vice president (cawapres), as long as they have experience as a regional head. The Supreme Court has also ruled on the minimum age for governor and deputy governor candidates, setting it at 30 years old, as outlined in Decision Number 23 P/HUM/2024. This study aims to analyze the shift in the paradigm regarding age restrictions for first-time voters in the context of Maqashid Syariah. The research employs a normative legal method with a statute approach to examine the paradigm shift in the regulation of age restrictions for voting rights, and explores the implications of this shift on electoral justice and the integrity of political leaders, analyzed through the Maqashid Syariah approach. The findings of this study conclude that age restrictions on voting rights need to be relaxed, as age is no longer a determinant of a citizen's maturity in thinking. In Islam, politics is intended to bring about public benefit in line with the objectives of shariah, as the principle states that the actions of a leader towards their people must be based on the common good. The age restrictions need to be re-evaluated, considering the principle that the original legal status of something is its nonexistence, meaning that the original legal basis for age restrictions on voting and candidacy does not exist. Another principle suggests that legal rulings (fatwas) can change due to changes in time, place, conditions, and objectives (intent). Therefore, it is necessary to re-evaluate the paradigm shift in the regulation of age restrictions for first-time voters to ensure fair elections and local elections for both candidates and voters.

**Keywords:** Age of Voting Rights, elections, Maqashid Sharia



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## Abstrak

Pembatasan usia untuk pemilih pemula dan persyaratan usia untuk kandidat pemilu di Indonesia telah menjadi topik diskusi dan perdebatan. Salah satu perdebatan tersebut berkisar pada Putusan Mahkamah Konstitusi (MK) Nomor 90/PUU-XXI/2023, yang mengizinkan individu di bawah 40 tahun untuk mencalonkan diri sebagai calon presiden (capres) atau calon wakil presiden (cawapres), selama mereka memiliki pengalaman sebagai kepala daerah. Mahkamah Agung juga telah memutuskan batas usia minimal untuk calon gubernur dan wakil gubernur, yang ditetapkan pada usia 30 tahun, yang dituangkan dalam Putusan Nomor 23 P/HUM/2024. Penelitian ini bertujuan untuk menganalisis pergeseran paradigma mengenai pembatasan usia pemilih pemula dalam konteks Maqashid Syariah. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan perundang-undangan untuk mengkaji pergeseran paradigma pengaturan pembatasan usia hak pilih, serta mengeksplorasi implikasi pergeseran tersebut terhadap keadilan elektoral dan integritas pemimpin politik yang dianalisis melalui pendekatan Maqashid Syariah. Temuan penelitian ini menyimpulkan bahwa pembatasan usia dalam hak pilih perlu dilonggarkan, karena usia tidak lagi menjadi penentu kedewasaan warga negara dalam berpikir. Dalam Islam, politik dimaksudkan untuk mewujudkan kemaslahatan umum yang sejalan dengan tujuan syariah, sebagaimana prinsip yang menyatakan bahwa tindakan seorang pemimpin terhadap rakyatnya harus didasarkan pada kemaslahatan bersama. Pembatasan usia perlu dievaluasi kembali, mengingat kaidah yang menyatakan bahwa status hukum asal dari sesuatu adalah ketiadaan, yang berarti bahwa dasar hukum awal dari pembatasan usia untuk memilih dan mencalonkan diri adalah ketiadaan. Kaidah lain menyebutkan bahwa hukum (fatwa) dapat berubah karena adanya perubahan waktu, tempat, kondisi, dan tujuan (maksud). Oleh karena itu, perlu dilakukan evaluasi ulang terhadap perubahan paradigma pengaturan pembatasan usia pemilih pemula untuk menjamin pemilu dan pilkada yang adil bagi kandidat dan pemilih.

**Kata Kunci:** Usia Hak Pilih, Pemilu, Maqashid Syariah

## Introduction

The age limit for first-time voters in Indonesia is currently set at 17 years old. However, there have been calls to raise the age limit to 18 years old or higher. This study aims to analyze the implications of raising the age limit for first-time voters in the context of Maqashid Syariah. The age limit for first-time voters in Indonesia is currently set at 17 years old. This age limit was set based on the assumption that individuals below the age of 18 are not yet mature enough to make informed decisions about their political preferences.<sup>1</sup> However, this assumption is challenged by some people who argue that individuals under 18 years of age are capable of making decisions based on information regarding their political preferences, including in the private sphere such as marriage, because it is not in accordance with the socio-cultural nature of society and is contrary to human rights.<sup>2</sup>

Reevaluating the age restrictions for voters in elections is crucial for several reasons. First, maturity of thought is not always determined by age. In today's era of widespread

<sup>1</sup> Khairul Fahmi, "Pergeseran Pembatasan Hak Pilih Dalam Regulasi Pemilu Dan Pilkada," *Jurnal Konstitusi* 14, no. 4 (February 9, 2018): 757, <https://doi.org/10.31078/jk1443>.

<sup>2</sup> Hasanuddin Hasim et al., "Penghapusan Aturan Batas Usia Perkawinan Dalam Sistem Hukum Indonesia," *JURNAL SULTAN: Riset Hukum Tata Negara* 1, no. 1 (October 17, 2022): 44–51, <https://doi.org/10.35905/sultanhtn.v1i1.3217>.

access to information, young people are capable of understanding political and social issues more quickly, meaning chronological age is not always an indicator of mental maturity. Second, lowering the voting age can increase political participation among younger generations. Involving first-time voters in the democratic process early can foster a sense of responsibility and engagement with governance. Third, social and technological changes have transformed how information is disseminated, allowing young people to engage more actively in politics through social media and the internet. Fourth, reviewing voter age limits is important for democratic fairness, ensuring that all segments of society, including the youth, are better represented. Finally, the contribution of young voters can bring new perspectives on issues like climate change, technology, and education, potentially leading to more inclusive and sustainable policies.<sup>3</sup> Therefore, revisiting the voting age is a vital step to ensure that the electoral system remains relevant to social and political developments while enhancing inclusivity in democracy.

Every citizen must have certain expectations when faced with a general election contestation, whether it is the presidential election, governor election, regional head election or even the village head election, with the aim that these expectations can be met if they vote for the candidate. An understanding of voter behavior, especially the factors that influence voter behavior, is very important. Because armed with sufficient understanding of voter behavior, a candidate and political party will easily formulate, determine, implement, and evaluate strategies and methods of approach that will be used as a succession of an election to reap the winning votes.

Voters are rational voters who have responsibility, awareness, calculation, rationality and the ability to critically control the candidate of their choice, which leaves the characteristics of traditional voters who are fanatical, primordial and irrational, and is different from swinger voters who always hesitate and switch their political choices. Novice voters are indeed a crucial segment in electoral participation, often viewed as a potential force for shaping future political landscapes. Research conducted by various institutions suggests that novice voters tend to lean towards established, major political parties. For instance, a study by a research institute surveyed 2,500 novice voters across five major cities in Indonesia and found that they tend to prefer larger, well-established parties. This preference could be attributed to factors such as broader visibility, strong political branding, and influence through social networks or media exposure, which are more accessible to these parties compared to smaller or newer political groups.<sup>4</sup>

To provide a specific citation or source for this claim, I would need to locate the exact research you're referring to. If you have any more details about the study, such as the name of the research institute or the date of publication, I can help you search for it. Otherwise, I recommend referencing general studies or reports from well-known research organizations

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<sup>3</sup> Mikael Persson, "Education and Political Participation," *British Journal of Political Science* 45, no. 3 (July 22, 2015): 689–703, <https://doi.org/10.1017/S0007123413000409>.

<sup>4</sup> Ben Bland, Evan Laksmana, and Natasha Kassam, "Charting Their Own Course How Indonesians See The World," 2021.

such as LSI (Lembaga Survei Indonesia) or SMRC (Saiful Mujani Research and Consulting) that frequently conduct surveys on voting behavior in Indonesia.<sup>5</sup>

The importance of revisiting age restrictions for novice voters is driven by several factors. First, broader access to information through technology has enabled young people to understand political issues more quickly, meaning that mental maturity is no longer entirely dependent on age.<sup>6</sup> Second, many studies highlight the importance of youth political participation to strengthen a more inclusive and fair democracy. For example, according to a study by International IDEA, expanding political participation to young people not only enhances the legitimacy of governance but also encourages political reform that is more responsive to future generations.<sup>7</sup>

Studies within the context of *Maqashid Syariah* also emphasize that age restrictions should be based on the principle of public good (*maslahah*). In Islam, laws can change according to shifts in time, place, and circumstances, as explained by the principles of *Maqashid Syariah*.<sup>8</sup> Therefore, a review of age restrictions for novice voters is necessary to ensure more fair and inclusive elections. According to Ardianto and Erdinaya, students' political awareness is a determinant factor in public political participation, meaning that as a matter of fact, it is the most important factor in political participation.<sup>9</sup> This means that knowledge and awareness of rights and obligations related to the community environment and political activities become the measure and level of a person involved in the political participation process. However, what distinguishes novice voters and other groups is the matter of political experience in facing elections so that what is used as a basis for making elections tends to be unstable or easily change according to the information or preferences that surround it.

Age restrictions for voters in elections in Indonesia have been a long and complex debate. Age restrictions for voters in Indonesian elections have a long history and have undergone several changes. Initially, Law No. 1/2014 on the Election of Governors, Regents and Mayors stipulated that the requirement to be a candidate for governor and deputy governor was a minimum age of 30 years with a minimum high school education. Meanwhile, for regent and mayor candidates, the minimum requirement is 25 years old with a minimum education of high school / equivalent. In 2016, Law Number 10 on Pilkada regulates that the requirement to become a candidate for governor and deputy governor is a minimum age of 30 years with a minimum high school education / equivalent. Meanwhile, for regent and mayor candidates, the minimum requirement is 25 years old with a minimum high school education.<sup>10</sup>

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<sup>5</sup> Salma, "Dynamic Young Voters Set to Shape Indonesia's 2024 Election Landscape," *Dynamic Young Voters Set to Shape Indonesia's 2024 Election Landscape*, n.d.

<sup>6</sup> Pippa Norris, *Democratic Deficit: Critical Citizens Revisited* (Cambridge University Press, 2011).

<sup>7</sup> Namatai Yvette Munyuru, "Youth Participation in Electoral Process," *Africa University*, 2018.

<sup>8</sup> Masykuri Abdillah, *Islam Dan Dinamika Sosial Politik Di Indonesia* (Jakarta: PT. Gramedia Pustaka Utama, 2011).

<sup>9</sup> Elvinaro Ardianto, Lukiat Komala, and Siti Karlinah', *Komunikasi Massa: Suatu Pengantar Edisi Revisi* (Simbiosa Rekatama, 2008).

<sup>10</sup> Khairul Fahmi, "Pergeseran Pembatasan Hak Pilih Dalam Regulasi Pemilu Dan Pilkada," *Jurnal Konstitusi* 14, no. 4 (February 9, 2018): 757, <https://doi.org/10.31078/jk1443>.

Criticism and controversy over age restrictions for voters often stem from arguments about fairness and democratic principles. Critics argue that setting an arbitrary age limit, like 17, without considering individual maturity and civic awareness, can be seen as undemocratic. They contend that every citizen, once reaching the legal voting age, should have the right to participate in the electoral process, as this is a fundamental principle of democracy. These critics believe that limiting voting rights by age can unfairly exclude individuals who are fully capable of making informed decisions about their leaders and their interests.

For instance, research has shown that young voters, even at the age of 17, can be politically informed and engaged, often more so than older voters who may not follow current events as closely. Proponents of lowering the voting age argue that younger people, especially in an era of increased access to information, have the right to a voice in decisions that will significantly impact their future.<sup>11</sup> Additionally, a study by International IDEA emphasizes that lowering the voting age can strengthen democratic legitimacy by including voices from all segments of society, including youth, who bring fresh perspectives to political discourse.<sup>12</sup>

These criticisms align with broader concerns about inclusivity in democracies worldwide, where expanding voter eligibility is seen as a way to ensure that elections reflect the interests of all citizens, not just certain age groups. The age restriction for voters in Indonesian elections has several implications. First, it can inhibit the potential of candidates with great potential and experience in various fields. Second, it may inhibit the participation of younger citizens in the electoral process, thereby reducing the quality of democracy in Indonesia. Third, it may inhibit the ability of citizens to choose leaders who are in line with their interests, thereby reducing citizens' satisfaction with the electoral process.

The theory of *Maqashid Shariah* (the objectives of Islamic law) in Islam states that legal rulings are established to achieve the welfare (*maslahah*) of humanity, and that legal changes can be influenced by changes in time, place, and circumstances. This theory emphasizes that Islamic law aims to protect five fundamental human needs: religion (*din*), life (*nafs*), intellect (*aql*), lineage (*nasl*), and property (*mal*).<sup>13</sup> When significant changes occur in social, cultural, political, or technological contexts, the applied laws may also be adapted to achieve greater welfare.

Prominent scholars such as Al-Ghazali and Al-Shatibi have argued that Islamic law is flexible and can adapt to changing conditions as long as it aligns with the overarching goals of Shariah. Al-Ghazali, in his work *Al-Mustasfa*, states that laws aimed at preserving welfare can evolve with changing circumstances, provided their purpose remains focused on *maslahah*.<sup>14</sup> Similarly, Al-Shatibi, in *Al-Muwafaqat*, emphasizes that *Maqashid Shariah* considers

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<sup>11</sup> Pippa Norris, *Democratic Deficit: Critical Citizens Revisited*.

<sup>12</sup> Namatai Yvette Munyuru, "Youth Participation in Electoral Process."

<sup>13</sup> Yusuf Syaikh Al-Qardhawi, *Fiqh Maqashid Syariah*, 2017.

<sup>14</sup> Abu Hamid Muhammad B., and B. Muhammad al-Ghazali. Muhammad, *Al-Mustasfa Fi 'ilm al-Usul*, 3rd ed., vol. 2 (Cairo, Mesir: Darul Ifta, 2005).

not only the literal texts of the law but also the context and intention behind them, allowing for legal changes based on shifts in time and place.<sup>15</sup>

Contemporary scholars also assert that technological advancements, economic changes, and social-political dynamics today can influence specific legal rulings in Shariah. For instance, fatwas can change based on local conditions and the evolving needs of the community, as discussed by Yusuf al-Qaradawi in his work on *Fiqh al-Awlaiyyat* (priorities in Islamic law).<sup>16</sup>

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This study uses a normative legal method to analyze the shift in the paradigm of age limitation for first-time voters in the context of Maqashid Syariah. The analysis is based on the principles of Maqashid Syariah and the research employs a normative legal method with a statute approach to examine the paradigm shift in the regulation of age restrictions for voting rights, and explores the implications of this shift on electoral justice and the integrity of political leaders, analyzed through the Maqashid Syariah approach., which emphasize the importance of fairness, justice, and the well-being of society. This research is legal research that is applied or applied specifically to legal science. According to the type, nature, and purpose, legal research can be divided into normative legal research and empirical legal research. The type used in this research is normative legal research (juridical normative).<sup>18</sup> Because, this research is carried out by examining library materials or secondary data in the form of: *First*, Primary legal materials: Legislation related to general elections and regional head elections, as well as decisions of the Constitutional Court in testing laws related to elections and regional elections. *Second*, Secondary legal materials: Data that provides an explanation of primary legal materials, such as bills, research results, scientific works, and others. *Third*, Tertiary legal materials: Data that provides information about primary and

<sup>15</sup> Ibrahim Ibn Al-Shatibi, *The Reconciliation of the Fundamentals of Islamic Law: Al-Muwafaqat Fi Usul al-Shari'a*, vol. Vol. 1. (UWA Publishing, 2012).

<sup>16</sup> Yusuf Al-Qaradawi, *Dirasat Jadidah Fi Daw'al-Qur'an Wa-al-Sunnah Fi Fiqh al-Awlaiyyat*, 4th ed., vol. 2 (Cairo, Mesir: Maktabat Wahda, 2007).

<sup>17</sup> Martua Putra, Dedisyah, Hamid, Asrul, Nasution, "Metodelogi Maqashid Al-Syari'ah Jasser Auda Sebagai Pendekatan Baru Sistem Hukum Islam," *Alsyakhshiyyah*, n.d., <https://jurnal.iain-bone.ac.id/index.php/alsyakhshiyyah/article/view/2427>.

<sup>18</sup> Zainuddin Ali, *Metode Penelitian Hukum*, Revisi (Jakarta: Sinar Grafika, 2021).

secondary law, such as legal language dictionaries, encyclopedias, magazines, mass media, and the internet.

Data analysis is carried out by tracing the conditions for the use of the right to vote and the right to be elected in laws related to elections and regional elections as well as the conditions tested through judicial review by the Constitutional Court. Furthermore, the data are critically examined using the perspective of electoral justice and the perspective of the role of law in guarding elections as an instrument of democracy in the review of *maqashid syariah al-islamiyah*.

### **Principles of Maqashid Sharia in the Context of Islamic Politic**

Islam as one of the religions with the most followers in this country certainly also gets a portion of religious doctrine so that politics can be used as a tool to realize the benefits of the nation and its citizens. Politics in Islam is referred to as Siyasah. The word "siyasah" comes from the word sasa, yasusu, susan or wasyiatan, which means to organize, manage and rule, lead, make decisions or policies, in government and politics. Siyasah when interpreted etymologically in Oral al-Arab, siyasah is managing the roof or leading something by leading to the interests of the people. When simplified, siyasah is the science that discusses the rules in the procedure of society and the state through all forms of rules or norms that apply.<sup>19</sup>

When viewed in terms of terminology, siyasah is defined as the laws of shara' relating to the fulfillment of power and power in the state as well as the determination and enforcement of the law fairly, relating to the limits and rights of Allah SWT, as well as those related to human rights. Furthermore, it is defined as everything that is done by the leader of the state in the form of ijтиhad in the affairs of the people that leads them closer to maslahat and away from mafsadat, not found in the shar'i texts (Al-Qur'an and As-Sunnah), as long as it is in line with the realization of al-maqasid as-shari'ah and never violates or contradicts the verses or arguments that are detailed in nature. Then it is also interpreted as ta'dzir, threat and punishment.<sup>20</sup>

Politics is the science of Islamic government that specializes in discussing the arrangements for the benefit of mankind in general and the state in particular, for example the establishment of laws, regulations and policies by power holders in accordance with Islamic teachings, in order to produce the interests of the people and avoid them from various harms, which will arise in the life of the community, nation and state.<sup>21</sup>

In accordance with the implementation of the mandate entrusted by the central government and the regional government, the village government has the right to uphold the certainty of law and justice according to the words of Allah SWT in the Al-Qur'an surah An-Nisa verse 58 as follows: "Indeed, Allah commanded you to convey the mandate to those who

<sup>19</sup> Muhammad Iqbal, *Fiqh Siyasah Konstekstualisasi Doktrin Politik Islam* (Jakarta: Prenada Media Group, 2014).

<sup>20</sup> Muhammad bin Abi Bakar Ayub Az-Zar'iy, *Al-Thuruq al-Hukmiyyah Fi as-Siyasah as-Syar'iyyah* (Mesir: Daar al-Wafa, 2003).

<sup>21</sup> Mujar Ibnu Syarif and Zada Khamami, *Fiqh Siyasah Doktrin Dan Pemikiran Politik Islam* (Jakarta: Gelora Aksara Pratama, 2008).

deserve it and (commanded you) when establishing laws between people so that you establish them justly. Indeed, Allah gives you the best lessons. Indeed, Allah is All-Hearing and All-Seeing.<sup>22</sup> The Islamic religion has explained issues regarding the importance of government issues, relating to world affairs and the hereafter, the reason is that there is an opinion that Islam is a religion that is complete with all the laws of life in which there are constitutional, economic, social and other systems.

The principle of siyasa is an Islamic state or government. Principles or principles are truths that form the basis of thinking, making decisions and so on.<sup>23</sup> The principle of al-ashl in Arabic is interpreted as something that is used as the basis of a building, or something that is upheld that is both material and immaterial. The principles created certainly contain truth which is used as a basis for administering government in an Islamic perspective. Furthermore, Muhammad Tahir Azhary said there are nine principles below:<sup>24</sup>

1. The principle of power as trust. In the view of the Islamic religion, full power belongs only to Allah SWT. Belief in Allah as the source of all things. This also includes power and sovereignty, which are the main fundamental forms needed to instill the building of an Islamic society and state and government. The beliefs of Muslims are formed based on the belief in God's sovereignty, meaning that they believe that Allah SWT has full rights to establish laws to regulate humans.
2. The principle of deliberation. In social life, people will of course have different desires or opinions, this can lead to disputes and can even result in loss of life. So deliberation is the best way, this is also in accordance with Islamic teachings. In order to save people from various bad things.
3. Principle of protection of human rights. The view of the Islamic religion is that the form of protection of human rights is based on the aim of the revelation of Islamic law itself, which is meant to protect and maintain the interests of human life. For example, protection of religion, soul, mind, lineage and property.
4. Principle of Equality. In the view of Allah SWT, humans are His servants who do not have any differences. It's just that if humans obey His commands, that's what makes Allah raise His rank according to what He wants. This is in accordance with the word of Allah SWT in the Al-Qur'an surah An-Nisa verse 1 as follows: "*O people, fear your Lord who created you from a single person, and from him God created his wife; and from both of them God raised many men and women. And fear God who by (uses) friendly relations. Indeed, God always takes care and watches over you*". (Q.S An-Nisa: 1)<sup>25</sup>
5. The principle of obedience of the people. In accordance with the agreement of the scholars, the obedience of the people to the leader. Muslims still believe in Allah

<sup>22</sup> RI Departemen Agama, *Alquran Dan Terjemahan, Al-Qur'an Terjemahan*, 2007.

<sup>23</sup> Munir Subarman, *Hukum Islam Dan Ketatanegaraan* (Jakarta: Badan Litbang dan Diklat Kementerian RI, Cetakan Pertama, 2012).

<sup>24</sup> Rappung Samsuddin, *Fikih Demokrasi* (Jakarta: Gozian Press, 2013).

<sup>25</sup> RI Departemen Agama, *Alquran Dan Terjemahan, Al-Qur'an Terjemahan*, 2007.

as the holder of full power or sovereignty, if the government is seen as the nature of its power is relative.<sup>26</sup>

6. The principle of justice. Quraish Shihab says there are four principles of justice, namely: first fair means equal to rights, second fair in the sense of balance, third fair means giving rights to those who are entitled or qualified, fourth fair which is always associated with Allah SWT.
7. The principle of free justice. This means that the judge as an object that is given strong authority, the judge must be pious and protect the rights of others according to deep consideration.<sup>27</sup>
8. The principle of peace. Of course, a peaceful, tranquil condition is very desirable among humans. To achieve this, Islamic teachings have made rules for human life or socializing, eliminating disputes.<sup>28</sup>
9. The principle of welfare. Tahir Azhary said that the principle of welfare has the aim of realizing social and economic justice for all people.<sup>29</sup>

Maqashid Sharia, which is also known as the objectives of Sharia, is a concept in Islamic law that emphasizes the importance of ensuring the well-being and protection of individuals, families, and society as a whole. The main characteristics of Maqashid Sharia can be categorized into several dimensions:<sup>30</sup>

1. Personal-Individual Dimension: This dimension focuses on the protection and well-being of the individual, including their physical, mental, and spiritual health.
2. Family-Private Dimension: This dimension emphasizes the importance of family and private life, including the protection of family relationships, marriage, and children.
3. Ummah-Public Dimension: This dimension highlights the role of the community and society in ensuring the well-being and protection of all members, including the protection of public health, safety, and security.
4. Human Dimension: This dimension encompasses the broader aspects of human life, including the protection of human dignity, human rights, and the promotion of human welfare.

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<sup>26</sup> Solehuddin Harahap, "Siyasah Syari'iyah Dalam Perspektif Islam," *Jurnal Hukumah: Jurnal Hukum Islam* 5, no. 2 (2022).

<sup>27</sup> Otti Ilham Khair and Wirman Syafri, "The Role of Ethics in Decision Making by the Constitutional Court on the Age Limit for Presidential and Vice Presidential Candidates Peran Etika Dalam Pengambilan Putusan Oleh Mahkamah Konstitusi Tentang Batas Usia Calon Presiden Dan Calon Wakil Presiden," *Social and Political Science Faculty* 12, no. 1 (2024): p.

<sup>28</sup> Asrul Hamid and Dedisyah Putra, "The Existence of New Direction in Islamic Law Reform Based on The Construction of Ibnu Qayyim Al-Jauziyah's Thought," *JURIS (Jurnal Ilmiah Syariah)* 20, no. 2 (2021): 247, <https://doi.org/10.31958/juris.v20i2.3290>.

<sup>29</sup> Muhammad Tahir Azhari, *Beberapa Aspek Hukum Tata Negara, Hukum Pidana Dan Hukum Islam* (Jakarta: Kencana, Cetakan ke-2, 2015).

<sup>30</sup> Ari Salman Alfarisi Afif Muamar, *Maqashid Syariah, Jurnal of Islamic Economic Lariba*, vol. 3, 2017.

These dimensions are interconnected and interdependent, forming the foundation for the overall well-being and protection of individuals and society. Yusuf Al-Qadhwari said there are ten characteristics of law in Islam, as follows:<sup>31</sup>

1. The nature of Islamic law facilitates and eliminates difficulties in it;
2. Adapting to the development of time;
3. From ideal values to reality and adjusted when the situation is emergency;
4. Everything that is detrimental to the people, should be eliminated;
5. Harm that is considered specific, then used becomes general;
6. Mild harm is used to reject serious harm;
7. Condition forced to facilitate prohibited acts;
8. Harm cannot be destroyed by harm;
9. What is allowed because it is necessary, is measured with the required measure;
10. Closing the source of damage is prioritized because it produces the interests of many people.

### **Provisions for Beginner Voters in Legislation Reviewed from Maqashid Sharia Principles**

The age limit for first-time voters in electoral systems is an increasingly significant topic in democracy, especially within the context of Islam. The theory of *Maqashid Shariah* (objectives of Islamic law) serves as a framework for evaluating this age limit. This paper will discuss how the age limit for first-time voters should be understood based on Shariah objectives and how its implementation can contribute to the welfare of the community.

The provisions for beginner voters in Indonesian legislation reviewed from the principles of Maqashid Sharia are as follows. *Age Limit*: The age limit for voting is set at 17 years old, which is considered to be the minimum age for a person to be considered mature enough to make informed decisions about their political preferences.<sup>32</sup> *Education*: The educational background of a voter is not explicitly mentioned in the legislation, but it is implied that a voter should have a basic understanding of the political process and the issues at stake.<sup>33</sup> *Health*: The legislation does not explicitly mention any health requirements for voters, but it does provide for the assistance of voters with disabilities. *Registration*: Voters are required to be registered on the voters list, which is maintained by the Election Implementer. *Voting Process* : The voting process is designed to be accessible and easy to understand, with voters able to cast their votes in a confidential manner.<sup>34</sup> *Assistance*: The legislation provides for the assistance of voters with disabilities, ensuring that they can

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<sup>31</sup> Mahfudin Agus, "Ijtihad Kontemporer Yusuf Al-Qaradhawi Dalam Pengembangan Hukum Islam," *Religi: Jurnal Studi Islam* 5, no. 1 (2014): 21–42.

<sup>32</sup> Muhammad Nurul Fahmi, "Tinjauan Siyasah Syar'iyah Terhadap Penetapan Batas Usia Nikah (Studi Kritis Terhadap Penetapan Usia Nikah Di Indonesia)," *Al-Majaalis : Jurnal Dirasat Islamiyah* 8, no. 1 (November 20, 2020): 87–122, <https://doi.org/10.37397/almajaalis.v8i1.158>.

<sup>33</sup> Lukman Khakim and Ahmad Thobroni, "Faktor Penyebab Perkawinan Di Bawah Umur Dalam Tinjauan Maqashid Syariah," 2019.

<sup>34</sup> Muhammad Sulthon, "Hukum Islam Dan Perubahan Sosial (Studi Epistemologi Hukum Islam Dalam Menjawab Tantangan Zaman)," *Jurnal Ilmiah Universitas Batanghari Jambi* 19, no. 1 (January 22, 2019): 27, <https://doi.org/10.33087/jiubj.v19i1.548>.

exercise their right to vote.<sup>35</sup> *Confidentiality*: The votes of voters are kept confidential, ensuring that the voting process is fair and transparent.<sup>36</sup>

These provisions are in line with the principles of Maqashid Sharia, which emphasize the importance of ensuring the well-being and protection of individuals, families, and society as a whole.

#### *Beginner Voting Rights in Indonesian Elections*

The involvement of first-time voters in elections is very important to study, given their increasing number. However, the provisions of novice voters are not widely known so that there is often a misunderstanding in determining the right to vote for novice voters during elections. The purpose of this research is to find out the provisions of novice voters in various laws and regulations on elections and the provisions of novice voters on the principles of siyasah.<sup>37</sup>

The provisions of novice voters are regulated in several laws, namely Law No. 1 of 2015 concerning the Stipulation of Government Regulations in Lieu of Law No. 1 of 2014 concerning the Election of Governors, Regents and Mayors. Law No. 7 of 2017 concerning Elections and Law No. 11 of 2006 concerning the Government of Aceh (UUPA) which states that voters are Indonesian citizens who have reached the age of 17 years or more, are married, or have been married who have the right to vote, are registered once by the election organizer in the voters list, are not mentally disturbed, are not being deprived of their voting rights and are registered as voters.

The provisions of novice voters regulated in the legislation do not violate the principle of siyasah dusturiyah, namely *jalb al-mashalih wa dar al-mafasid*, because the involvement of novice voters in elections in terms of the concept of Islam is a mandate for trusted candidates, which is in accordance with Islamic values.

The provisions for novice voters have also considered the principle of siyasah dusturiyah, namely the level of understanding that novice voters have of election procedures, the existence of political messages that support novice voters to get involved in elections, the existence of a conducive political environment for novice voters to make a sense of wanting to try, curiosity, curiosity and enthusiasm for participating in elections and there are factors in the novice voters themselves.

#### *Provisions of Early Voters*

The Provisions of Early Voters in Legislation in View of the Principles of siyasah dusturiyah. One of the branches of fikih siyasah that studies the state and legislation is siyasah dusturiyah. Siyasah dusturiyah is a study that discusses society, status, as well as the rights and obligations of citizens, regulation and legislation based on religious

<sup>35</sup> Saepudin Muhtar et al., "Peran Penting Pemilih Pemula Dalam Pemilu 2024," *DEVOSI* 4, no. 2 (October 12, 2023): 145–55, <https://doi.org/10.33558/devosi.v4i2.7388>.

<sup>36</sup> Shofiyullah Shofiyullah, "Praktek Demokrasi Di Indonesia Kontemporer Dalam Kritik Maqosidus Syariah," *TAJIDID: Jurnal Ilmu Ushuluddin* 14, no. 2 (November 2, 2015): 223–50, <https://doi.org/10.30631/tjd.v14i2.36>.

<sup>37</sup> Shofiyullah.

principles that aim to realize human benefit. In addition, the problems discussed in siyasah dusturiyah are the relationship between the government (leader) and the people or citizens as well as the institutions that exist in society and the State.<sup>38</sup> Allah says in Q.S An-Nisa Ayat 59: "*O you who believe, obey Allah and obey the Messenger (Muhammad), and ulil amri (power holders) among you..*"<sup>39</sup>

With regard to political participation, it includes obeying the leader, because it is an order from the leader to channel voting rights to elect leaders or representatives. Religion will not be established without the existence of human beings who embrace it. Not upright mankind except with the existence of a leader. Discussing the issue of leaders, according to al-Mawardi, a leader is a reflection and the key to prosperity for the community.<sup>40</sup> The leader is also called the Imamah or khilafah reflected in an institution to replace the prophethood aimed at protecting religion and regulating world life. Based on scholarly consensus on the institutionalization of the Imamate or khilafah is fardu kifayah.

As for the obligatory status of appointing a leader, it is fardu kifayah, like the obligatory status of jihad and seeking knowledge. This means that if a competent person is appointed as the Imam (caliph), then the obligation to appoint an Imam for others is waived because the status of the obligation is fardu kifayah. However, if no one is appointed as the Imam, it requires that two groups be formed: the first group is the electorate which is in charge of choosing the Imam for the ummah, and the second group is the Imamate which is in charge of appointing one of them as the Imam.<sup>41</sup>

Based on the above description, establishing the Imamate is one of the obligations of religion. Because, with the existence of a leader it will form unity with each other. In addition, the existence of a leader can realize the benefit of the people and can prevent damage. The election of leaders in Indonesia is carried out through a general election process or what is often referred to as elections. Elections are allowed in Islam, because power is in the hands of the people. This is one of the principles in the Islamic system of government. Elections are the same as the process of deliberation in choosing a leader. After a leader is elected, the leader is blessed to become the caliph. If seen from the participation of first-time voters in exercising their rights as citizens by voting in the 2019 election, it is a political activity or a mandate given to potential leaders.<sup>42</sup>

In addition to knowing the law in choosing a leader or appointing a leader, which is mandatory. From the above verse, it can be seen that political involvement in the Islamic concept is a mandate to a trusted candidate, which is in accordance with

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<sup>38</sup> Atjep Djazuli, *Fiqh\_siyasah*, 2003.

<sup>39</sup> Departemen Agama, *Alquran Dan Terjemahan*, 2007.

<sup>40</sup> Imam al-Mawardi, *Al-Ahkam As-Sulthaniyyah: Hukum-Hukum Penyelenggaraan Negara Dalam Syariat Islam* (Darul Falah, 2021).

<sup>41</sup> Djazuli, *Fiqh\_siyasah*.

<sup>42</sup> Agam Primadi, David Efendi, and Sahirin Sahirin, "Peran Pemilih Pemula Dalam Pengawasan Pemilu Partisipatif," *Journal of Political Issues* 1, no. 1 (July 24, 2019): 63-73, <https://doi.org/10.33019/jpi.v1i1.7>.

Islamic values.<sup>43</sup> So if someone does not take part in terms of participating in choosing a leader, it means that he does not give trust to the next leader and does not carry out what has been ordered by Islamic law, as the legal status is mandatory.

The review of siyasah dusturiyah on legal policy towards novice voters in general elections in the Republic of Indonesia, because these novice voters participate in politics because there is a basis that does not violate in Islam, namely:<sup>44</sup> *First*, there is a level of understanding possessed by novice voters. Novice voters participate in general elections because of the knowledge that each individual has, so there are also differences in the individual characteristics of novice voters. In addition to being a knowledgeable person, being a student at school is the obligation of a novice voter. That is, as someone who identifies as a student at a certain foundation or agency has the duty and responsibility to apply the knowledge gained into everyday life. For beginner voters as well as students, there should be no reason to be lazy to learn and understand what has been taught at school. Including learning political education for the life of society and the state. So that the lazy attitude makes a lack of understanding and becomes an attitude of not caring and even not wanting to find out about elections. Indeed, Allah does not like the nature of people who are lazy and do not want to learn. Allah's Word in Surah al-Alaq Verses 1-5: "Read by (mentioning) the name of your God who created, He has created man from a clot of blood, read and your God is the most merciful, who teaches man through the medium of the pen. He teaches people what they do not know". (Al-Alaq: 1-5)<sup>45</sup>

This verse contains commands to read, write and also study. Allah has given humans the natural qualities within themselves to be able to learn and attain various knowledge and skills so that they can increase their ability to carry out life. The connection with political participation is that novice voters diligently study and understand other sciences related to state, social and community with the aim of forming an attitude of awareness in participating in elections and forming an attitude of concern for social and community life.<sup>46</sup>

*Second*, there is a stimulus in the form of messages that support novice voters to participate in elections. In the Islamic concept, the above is called deliberation, which comes from the word syawara, which means conferring, exchanging opinions. Deliberation is explaining and negotiating with each other or asking and exchanging opinions on a matter. If deliberation means the principle of political participation in western political thought, then the principle of amar ma'ruf nahi mungkar which is the

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<sup>43</sup> La Jamaa, "Fatwas of the Indonesian Council of Ulama and Its Contributions to the Development of Contemporary Islamic Law in Indonesia," *Indonesian Journal of Islam and Muslim Societies* 8, no. 1 (2018): 29-56, <https://doi.org/10.18326/ijims.v8i1.29-56>.

<sup>44</sup> Imam al-Mawardi, *Al-Ahkam As-Sulthaniyyah: Hukum-Hukum Penyelenggaraan Negara Dalam Syariat Islam*.

<sup>45</sup> Departemen Agama, *Alquran Dan Terjemahan*, 2007.

<sup>46</sup> Loina L. K. Perangin-angin and Munawaroh Zainal, "Partisipasi Politik Pemilih Pemula Dalam Bingkai Jejaring Sosial Di Media Sosial," *Jurnal ASPIKOM* 3, no. 4 (February 22, 2018): 737, <https://doi.org/10.24329/aspikom.v3i4.210>.

goal of all authority in Islam, as said by Ibn Taymiyyah "all authority in Islam the goal is only amar ma'ruf nahimungkar, essentially symbolized in the task of supervision over those who have power, means realizing the political participation of the people in all public matters and also in law, starting from the obligation to give advice which has been ordered by the Prophet Muhammad Saw.<sup>47</sup>

Talking about teachers, in this case, a teacher, certainly cannot be separated from the figure of a knowledgeable person, meritorious in leading others to goodness and preventing them from evil. Because only people who are knowledgeable and want others to be good, are able to carry out this task. As a noble religion, Islam strongly encourages its followers to become educators who are knowledgeable, enjoining good and preventing evil. In fact, they are classified as the lucky ones in this world and in the hereafter. Allah say in the quran Q.S Al- Imran versus 104: Meaning: "*And there should be among you a group of people who call to virtue, enjoin what is good and forbid what is evil.*"

In relation to the involvement of novice voters in general elections in the Republic of Indonesia, the role of teachers in formal schools is very important in addressing the mindset and political awareness of novice voters who are still under guidance, because there are still some novice voters who are not involved in elections and with The relationship between teachers and students can be said to have a positive impact on voters who will follow the teacher's advice to love their homeland by getting involved in elections.

*Third*, the existence of a conducive political environment makes people happy to get involved in elections so that an attitude of wanting to try, curiosity and curiosity is formed which makes first-time voters enthusiastic about participating in the elections. Elections are the first experience for people who have the status of beginner voters, so they are curious, always asking senior voters how to vote in elections. A conducive environment makes it easy for novice voters to discuss things they don't know yet. Allah SWT says in Q.S Al-Imran Verse 159: It means: "*So it is because of the mercy of God that you behave meekly towards them. If you are harsh and rude, of course they will stay away from you. therefore forgive them, ask forgiveness for them, and consult with them in the matter. Then when you have made up your mind, then put your trust in God. Indeed, Allah loves those who put their trust in Him.*"

The verse above clearly explains the command to deliberate. The relationship with the involvement of novice voters in general elections in the Republic of Indonesia is the inquisitive attitude of novice voters by asking their seniors to create enthusiasm and encourage a sense of political involvement in elections.

*Fourth*, there are other internal factors found in novice voters, such as the absence of costs to return to their domicile of origin and laziness to get involved in elections. The laziness in question is the attitude of withdrawing from political involvement. Abstention is the right of every citizen, but as a good citizen, novice

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<sup>47</sup> Qamaruzzaman Stai and Mempawah Kalimantan Barat, "Pemikiran Politik Ibnu Taimiyah," vol. 2, n.d.

voters must have the awareness to exercise their rights as citizens by participating in the election process in order to create the benefit of the people.<sup>48</sup>

Based on the concept of Islam, the existence of government is very beneficial for the life and sustainability of a country. Because it is closely related to the realization of public welfare. In addition, a prospective leader must try to think clearly in his political world to make the land of *da'wah*, a place to convey *amr ma'ruf nahi munkar*.

The political awareness of novice voters is very necessary, because there are still some novice voters who are not interested in participating in voting. The higher the awareness of novice voters about the importance of participating in the political process aimed at building the country, the higher the participation of the community to involve themselves in state activities. Curious and enthusiastic about participating in the election as well as factors in the novice voters themselves.

### **Age Limit for First-Time Voters in the Context of Maqashid Sharia**

#### *Maturity of Thought and Participation*

*Maqashid Shariah* emphasizes the importance of protecting the intellect (*aql*) within Islamic law. The maturity of thought of an individual does not always align with age; many young voters, even at the age of 17, have demonstrated the ability to understand political issues and make informed decisions. A study conducted by Norris indicates that young voters often possess greater awareness due to wider access to information through technology. Therefore, age should not be the sole indicator of maturity for participation in elections.<sup>49</sup>

#### *Justice and Welfare*

The principle of justice (*adl*) in *Maqashid Shariah* requires that all segments of society have equal rights in political participation. Involving young voters is crucial to ensuring their voices are represented in decision-making processes. Strict age limits can create injustice and disregard the potential of young voters to contribute to decisions that affect their futures.<sup>50</sup> Politics involving new voters is often only based on the interests of gaining votes and the electability of certain candidates, even though the existence of new voters can be used as a basis for future strategic policies so that the trust of constituents continues to be well maintained.<sup>51</sup>

#### *Flexibility of Law*

Al-Ghazali and Al-Shatibi argue that Islamic law should be flexible and able to adapt to changing social and cultural conditions. Al-Ghazali, in *Al-Mustasfa*, emphasizes that laws should be adjusted to achieve welfare, while Al-Shatibi in *Al-*

<sup>48</sup> Agam Primadi, David Efendi, and Sahirin Sahirin, "Peran Pemilih Pemula Dalam Pengawasan Pemilu Partisipatif," *Journal of Political Issues* 1, no. 1 (July 24, 2019): 63-73, <https://doi.org/10.33019/jpi.v1i1.7>.

<sup>49</sup> Teona Turashvili, "Youth Participation in Electoral Processes and the Role of Political," 2018.

<sup>50</sup> Yusuf Qardhawi, *Fikih Daulah: Dalam Perspektif Al-Qur'an Dan Sunnah* (Jakarta Timur: Pustaka Kautsar, 2014).

<sup>51</sup> Heru Dian Setiawan and TB. Massa Djafar, "Partisipasi Politik Pemilih Muda Dalam Pelaksanaan Demokrasi Di Pemilu 2024," *Populis : Jurnal Sosial Dan Humaniora* 8, no. 2 (December 20, 2023): 201, <https://doi.org/10.47313/pjsh.v8i2.2877>.

*Muwafaqat* stresses the importance of understanding context in the application of law. Thus, the age limit for voters should be regularly evaluated to reflect the dynamic realities of society.<sup>52</sup>

#### *Ideally in Islam*

Within the framework of *Maqashid Shariah*, election policies should be inclusive and not solely based on age. Ideally, the age limit for first-time voters should take into account individual maturity, education, and political knowledge. By allowing all eligible individuals, particularly the younger generation, to have a voice, we can achieve greater welfare for society.

### **Conclusion**

The analysis of the age limit for first-time voters through *Maqashid Shariah* indicates that this policy needs to be re-evaluated to create a more equitable and inclusive electoral system. By considering societal welfare, justice, and legal flexibility, we can build an electoral framework that is responsive to the needs of all community members, especially the younger generation. *Maqashid Syariah* provides the view that *Tasharruf al-Imam 'ala al-Ra'iyyah manuthun bi al-Maslahah* (Leader Policy based on Benefits) is a basic principle in Islam. This policy focuses on human benefit, both in this world and in the afterlife. In Islam, sharia is based on wisdom and human benefit. Policies that ignore benefit and justice cannot be accepted as part of the Shari'a.

Apart from that, the *maqashid* theory also states *Taghayyur al-ahkam bi taghayyur al-azman* changes in time, conditions and circumstances of a society can influence changes in legal policies so that the context of age restrictions should be reviewed in order to ensure benefits and answer the needs of society in today's era. The provisions of novice voters in the laws and regulations need to be reviewed because of the needs of the community so that they can be adjusted to the principles in *maqashid syariah al-Islamiyah* and *siyarah dusturiyah*, where the provisions for determining novice voters through these laws and regulations should be considered in order to realize the benefits to be achieved by opening up space for easing the age restrictions on voting rights for beginners. On the other hand, the impact of a political policy is not only felt by those aged 17 years and over, but all layers of citizens regardless of their age and social status.

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<sup>52</sup> Mohammad Hashim Kamali, *Shari'ah Law: An Introduction* (Simon Publisher, 2008).

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