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# ANALYSIS OF THE IMPEACHMENT OF THE VICE PRESIDENT IN THE PERSPECTIVE OF INDONESIAN LAW AND FIQH SIYASAH: A CASE STUDY OF GIBRAN RAKABUMING RAKA

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### ABSTRACT

This article intends to analyze the impeachment of the vice president from the point of view of Indonesian law and Siyasah Islamiyah, with special emphasis on the case of Indonesian Vice President Gibran Rakabuming Raka. The impeachment of high-ranking state officials, such as the vice president, is an important issue [there is an Indonesian system of government that adheres to the presidential system. The discussion on the impeachment of Gibran Rakabuming Raka as Vice President of the Republic of Indonesia has caused a deep debate, not only from the point of view of constitutional law but also from the perspective of leadership ethics and political legitimacy. This research is a juridical-normative research. The data sources of this study are composed of primary and secondary data sources collected through literature studies. After accumulation, the data is analyzed by qualitative descriptive analysis method. The findings of this study indicate that the process of impeachment of Vice Presidents in Indonesia is strictly regulated and very limited. The 1945 Constitution contains clear requirements, namely that there must be serious violations of the law and involve three institutions. This makes impeachment difficult to carry out without strong evidence. In the context of Siyasah Islamiyah, a leader can be impeached if he loses trust and justice, which emphasizes the importance of moral responsibility. Gibran's case shows a clash between legality and legitimacy, where even if he is officially elected, the process undermines the trust of the public.

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## **INTRODUCTIONS**

The impeachment or impeachment of high-ranking state officials is a legal and political way in the presidential system to ensure accountability and integrity of leaders. In Indonesia, the impeachment of the president and vice president has been comprehensively designed in and . This process is very important as a form of constitutional supervision in order to prevent abuse of power or gross violations by the highest public officials.(Züelva



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, 2005) Law State Policy Republic Indonesia Year 1945 Article 7A, 1945; Law State Policy Republic Indonesia Year 1945 Article 7B, 1945) (Law State Policy Republic Indonesia Year 1945 Article 7B, 1945)

The issue of impeachment resurfaced after the election of Gibran Rakabuming Raka as Vice President to accompany Prabowo Subianto in the 2024 election contest. Gibran's emergence as a vice presidential candidate sparked a fierce debate that never subsided, rooted in those who revised the age threshold for presidential and vice presidential candidacy. The decision drew sharp attention because it was considered full of conflicts of interest, considering that the position of Chief Justice of the Constitutional Court at that time was held by Anwar Usman, who had direct family ties as Gibran's uncle. Although Gibran finally officially took office as vice president after the election, the issues of constitutional ethics, political legitimacy, and public morality remain an unresolved debate. (Verdict Court Constitution Number 90/PUU-XXI/2023, 2023) (Cape & Cape, 2023; Ulum, 2016)

In the context of fiqh siyasah, the election of state leaders does not only depend on the people's choice, but must also meet the criteria of moral, spiritual, and leadership ability. Principles such as al-kafa'ah (competence), al-amanah (honesty), and maslahah (common good) become normative references to assess whether a person's power can continue or not. Thus, it is necessary to carry out a comprehensive analysis of the issue of Gibran's impeachment involving two main approaches, namely positive law in Indonesia and fiqh siyasah.(Apeldoorn, 2004; São Paulo, 1994)

# **METHOD**

This research is pursued through a literature study approach, by utilizing various written references in the form of books, scientific journals, and other documents in print and digital form. The methodology used is qualitative, aiming to elaborate in depth on all aspects related to the focus of the study. Through a descriptive-analytical model, the discussion is directed to analyze the process of impeachment of the vice president within the framework of national law and the perspective of Siyasah Islamiyah, by making the case of Gibran Rakabuming Raka the focus of the discussion.

In research on impeachment law, all relevant data will be collected thoroughly, then arranged in order of events. The previously scattered data will be retraced through a systematic selection, verification, and rearrangement process to be in line with the focus of the study.

After the information collection, initial interpretation, and narrative preparation stages are completed, the data analysis process begins to formulate relevant patterns through the process of simplifying information. The next stage includes grouping themes, interpretation based on the thematic structure formed, and the application of a descriptive-analytical approach to formulate in-depth and comprehensive conclusions.

# **RESULT AND DISCUSSIONS**

#### Impeachment of Vice Presidents in Indonesia's Presidential System of Government

In the standardized Indonesian dictionary, the term makzul refers to the act of releasing or being dismissed from a position or position. Impeachment means: (Agency Development and Coaching Language, 2025)

- 1. Transferring power from the incumbent; remove someone from a position of highest authority.
- Voluntarily resign from the position of government power; Ending his reign as king. Impeachment is a series of actions or procedures carried out to dismiss a person. According to the Al-Munawir dictionary "makzul is isim maf'ul tashrifan (derivation) of the word عزل – يعزل which has many meanings namely separating the abdication, getting rid of it, isolating oneself, separation, and dismissal."



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. Makzul in the context of English includes various terms such as isolate, set apart, segregate, seclude, dismiss, discharge, recall, and remove from office. (Squirrelly, 1997) (São Paulo, 2009)

The term impeachment has its roots in Arabic which etymologically reflects meanings such as removal, separation, or the act of removing a person from his position. Impeachment can also be interpreted as the act of ending the term of office or the resignation of a king from power. Therefore, impeachment can be interpreted as an official act to revoke a person's authority from a position of power or position, both legally and politically, leading to the end of his term of office. (At- Thabari , 1984)

According to the term, impeachment refers to a political mechanism that results in dismissal from a position and a potential ban from occupying similar positions in the future, without criminal sanctions or civil charges. In the study of constitutional law, impeachment is understood as a constitutional procedure aimed at dismissing a president or other state official from his or her position legally. (Marzuki , 2016)

Attempts to end a presidential term prematurely are generally known by the two most prominent terms: impeachment and impeachment. In this context, the author prefers the term impeachment because it reflects a more comprehensive set of processes, covering all the stages until the president is officially removed from office, as previously described. Meanwhile, impeachment is narrower in scope, limited to the initial step of impeachment by parliament of a president who is suspected of having broken the law or is no longer fit to carry out his state duties. (Züelva , 2011)

The terminology "to impeach" means "to bring (a public official) before the proper tribunal on the charges of wrongdoing". While impeachment itself is synonymous with the word accuse which means to indict or accuse. Meanwhile, the Encyclopedia Britanica defines impeachment as "a criminal proceeding instituted against a public official by a legislative body". Impeachment is a legal mechanism used to prosecute public officials for actions that are considered deviant. In the context of the head of state or government, this term refers to the process of summoning to be held accountable for alleged violations of the law that occurred during his or her mandate in power. (Neufeldt , 1991)

The provisions related to the impeachment process in Indonesia have been explicitly regulated in Articles 7A and 7B of the 1945 Constitution. Based on the regulation, the implementation of impeachment cannot be carried out unilaterally, but must go through three institutional stages involving three different state institutions. The initial procedure began with the House of Representatives (DPR) which carried out the function of supervising the running of the government. If in the exercise of this function, the House of Representatives finds indications that the President and/or Vice President have committed serious violations as referred to in Article 7A of the 1945 Constitution such as treason against the state, corruption, serious criminal acts, or reprehensible acts, the House of Representatives, after going through internal mechanisms in accordance with its rules, can continue the process by submitting the impeachment proposal to the Constitutional Court (MK) for testing the veracity of the allegations. (Regulation Council Representative People Number 1 Year 2014 About System Orderly , 2014)

Referring to Article 7A of the 1945 Constitution, there are two main grounds that can be used as a basis for dismissing the president from his position, namely:

1. Committing unlawful acts that include, among others:

- a. Subversive acts against the state, which in the Constitutional Court Law are classified as crimes that threaten national stability and security according to the provisions of applicable laws. Corruption refers to crimes that are included in the category of criminal acts as expressly regulated in the provisions of the applicable laws and regulations according to the Constitutional Court Law.
- b. The crime of bribery refers to acts that are qualified as the crime of bribery according to the provisions listed in laws and regulations, as stipulated in the Constitutional Court Law.



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- c. Other serious crimes as stated in the Constitutional Court Law refer to unlawful acts that have a threat of imprisonment for a minimum of five years.
- d. The Constitutional Court Law does not detail the scope of the term "reprehensible act", so its meaning remains interpretive and open to further interpretation.
- Has lost the eligibility to hold the position of President and/or Vice President, as referred to in the Constitutional Court Law, by referring to the provisions listed in . In article 6 paragraph (1) it is stated that: (Law State Policy Republic Indonesia Year 1945 Article 6, 1945)
  - "Presidential candidates and Vice Presidential candidates must be Indonesian citizens from birth and have never received other citizenship of their own volition, have never betrayed the country, and are spiritually and physically capable to carry out their duties and obligations as President and Vice President."

Meanwhile, in paragraph (2) it is emphasized that "the provisions regarding the qualifications of presidential and vice presidential candidates are submitted to be regulated in more detail through laws and regulations." The regulations that regulate this are listed in . (Law (UU) Number 42 Year 2008 About Election Common President Dan Wakil Presiden, 2008)

The second stage in the series of impeachment proceedings is fully under the authority of the Constitutional Court. Based on the provisions of Article 7B paragraph (4), "The Constitutional Court has the constitutional responsibility to review, adjudicate, and give a decision on the official views submitted by the House of Representatives." This provision is also reaffirmed in . In this context, the House of Representatives plays the role of the petitioner in the trial because it is this legislative institution that conveys allegations that the President and/or Vice President have violated the provisions as formulated in Article 7A of the 1945 Constitution. Meanwhile, the procedures and procedures for handling impeachment cases by the Constitutional Court are further regulated through the procedural guidelines in handling the opinion of the House of Representatives regarding alleged violations by the President and/or Vice President. (Law (UU) Number 8 Year 2011 About Change Above Law Number 24 Year 2003 About Court Constitution , 2011) ( Regulation Court Constitution No. About Guidelines Events Deep Break Opinion Dewan Perwakilan Rakyat Mengenai 21 Year 2009 Dugaan Pelanggaran Oleh Presiden Dan/Atau Wakil Presiden, 2009)

After the Constitutional Court stated that the opinion of the House of Representatives had a constitutional basis, the next stage in the impeachment mechanism shifted to the MPR. The 1945 Constitution of the Republic of Indonesia expressly requires that the impeachment process can only be forwarded to the MPR if the Constitutional Court affirms the correctness of the DPR's opinion. In this case, the House of Representatives is also obliged to establish an official decision in the plenary session forum before proceeding with the proposal to dismiss the President and/or Vice President to the MPR. (Regulation Council Representative People Number 1 Year 2014 About System Orderly , 2014)

The decision-making at the MPR level on the proposal is carried out through a vote with the principle of majority. The procedures and requirements for a quorum are explicitly determined in the 1945 Constitution, namely that the plenary meeting of the MPR can only be held if it is attended by at least three-fourths of the total members. Furthermore, in order for the proposed dismissal of the President and/or Vice President to be valid, approval must be obtained from at least two-thirds of the number of members present at the session. (Law (UU) Number 27 Year 2009 About Council Deliberations People, Dewan Representative People, Congress Perwakilan Daerah, Dan Dewan Perwakilan Rakyat Daerah, 2009)



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#### Impeachment in the Perspective of Fiqh Siyasah

In the trajectory of Islamic history, especially in the era of the Khulafaurrasyidin, the figure who holds authority in the field of caliphate, immanship, and leadership is called the term caliph, imam, or amir. The term caliph itself comes from the root word khalafa, which meaningfully refers to a figure who takes over the role or position of the previous individual in certain affairs. In other words, a caliph is an individual who carries out the responsibility of being the successor or heir of someone's position in the leadership structure of the ummah.

The term caliph is often interpreted as as-Sultan al-A'zam, "which is the highest authority in the power structure. In the English context, this term is translated as deputy, successor, vicegerent, or as a title for the supreme head of the Muslim Community, who carries out the role of spiritual and political leadership as the prophetic successor (Caliph of the Apostle of Allah)." And the institution of the caliphate is called the caliphate. (Haekal, 2007)

Islam is widely believed by Muslims to be a religion that has complete perfection in directing and regulating the joints of life through the principles it teaches. In this framework, Islam is believed to contain its own system and procedure in determining or dismissing a leader. This is in line with the view that Islam as an all-encompassing religion not only accommodates worldly affairs, but also touches on ukhrawi aspects integrally. (Ash-Shalabi , 2017)

In Islam, the existence of a leader is a non-negotiable inevitability. The absence of a leader, even if only for a short time, can have very serious consequences. This is reflected in the event of the death of the Prophet Muhammad, where his funeral process was delayed because the people had to first determine the figure of the successor to the leadership. Even so, digging into the provisions in Islamic Sharia related to the procedure for appointing and removing a leader is a complex matter. Because, both in the Qur'an and the Sunnah of the Prophet Muhammad PBUH, there is no rule that clearly and directly discusses the mechanism. (Atha , 1992; Hilmy , 2009)

In the treasures of Islamic thought, the dynamics of the election and impeachment of leaders can be found through the results of the ijtihad of the scholars and the historical traces of the practice of the caliphate from the time of the Prophet PBUH to the era after. One of the thinkers who delves into leadership issues is Al-Mawardi. According to him, the process of appointing leaders in Islam requires the presence of two main elements: the ahlul halli wal 'aqdi assembly who has certain qualifications, and the candidate of leaders who meet leadership standards. This assembly holds the authority to determine who is worthy of being a caliph, while the candidate for leader is chosen from among those who meet the criteria that have been set normatively as well as practically. (Al- Mawardi , 2014)

Al-Mawardi outlined the mechanism for selecting leaders and the conditions that must be met by the prospective leader. Elections can be carried out through two main channels: "First, through the Ahl al-halli wa al-'Aqdi, which is a kind of legislative council that has the authority to determine leadership. Second, through the process of direct appointment by the previous imam or caliph." In the first scheme, Ahl al-halli wa al-'Aqdi held a deliberation to select a figure who was worthy of becoming an imam. They trace the background of candidates who are considered to meet the standards of the Imamah, then determine the most superior figure in terms of capacity, completeness of criteria, acceptability in the eyes of the public, and have a great chance of obtaining bai'at without significant rejection from the community. (Al- Mawardi , 2014)

In the treasures of Islam, various views have developed among the ummah on how to determine the figure of a leader, which has given birth to various approaches in the process of determining it, including: (Al-Qaradhawi , 2018)

- 1. Showing the direction of leadership without explicit mention, but through certain directions or guiding characteristics, as exemplified by the Prophet when the figure of Abu Bakr As-Siddiq appeared as the chosen leader.
- 2. Delegating the mandate of leadership to individuals who are considered to have capacity and integrity, as Abu Bakr As-Siddiq did when he gave his trust to Umar bin Khattab as his successor.



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- 3. Delegating the process of selecting leaders to a group of figures who are considered competent and meet the leadership criteria, as done by Umar bin Khattab by appointing Ahl al-halli wa al-'Aqdi in determining the next caliphs, namely Uthman bin Affan and Ali bin Abi Talib.
- 4. Transferring leadership authority hereditary through lineage or family, as is commonly practiced in the monarchy system.

In Islam, there is no explicitly and systematically defined concept or procedure of impeachment. Islam only establishes general criteria regarding the conditions that can cause a caliph to be removed from office. Broadly speaking, the position of the caliph cannot be maintained if five conditions occur: (An- Nabhani , 2001)

First, it is when the caliph loses his 'is' nature, i.e. committing acts of wickedness manifestly and openly. This is very crucial because it is one of the main conditions for the appointment of the caliph, and even the foundation for the sustainability of the appointment contract. In line with the provisions of Allah SWT which require justice ('is) for witnesses, this requirement is increasingly essential to ensure that the legitimacy of the caliph's office is maintained. Second, the caliph experienced a change in gender identity to a woman or transvestite. This change is directly contrary to one of the main conditions for the appointment and continuity of the caliphate, namely the requirement that the holder of the position must be male. This refers to one of the words of the Prophet PBUH: "It will never be lucky for a people who hand over their power (government) affairs to a woman."

Third, the caliph becomes crazy but not severe, sometimes cured and sometimes insane. Therefore, intelligence of reason is a crucial element in the appointment and sustainability of the position of caliph, as affirmed in the words of the Prophet Muhammad (saw): "The pen (legal taklif) is appointed from three groups..." until he said: "... from the one who loses his mind until he regains consciousness." Individuals who suffer from mental disorders are not even authorized to manage their personal affairs, much less to deal with the interests of the people. In such conditions, appointing a replacement, either as a washi or a deputy, is not allowed. This is because the caliphate contract is addressed directly to the caliph himself, so it cannot be transferred to other parties.

Fourth, a caliph is declared unable to carry out the functions of the caliphate if he experiences certain obstacles, such as physical disabilities or serious illnesses whose prognosis for recovery is very small. This inability is interpreted as the failure of the caliph to carry out the obligations attached to the position of caliphate. Because, conceptually, the caliphate contract is an agreement to carry out the mandate; If the caliph is unable to fulfill the responsibilities that are the core of the contract, then replacement or dismissal becomes a must. In this context, its existence is effectively considered equivalent to nothingness.

In addition to his inability to carry out the duties he was assigned because he had been appointed as caliph, it would obviously result in the displacement of religious affairs and the benefit of the Muslims. Therefore, this is an evil that must be eliminated, and it will not disappear except by dismissing it so that the Muslims can raise up others. So, at that time the law dismissed him became mandatory.

Fifth, when a caliph is under pressure to the point of losing the capacity to regulate the affairs of Muslims based on the understanding and application of sharia law, then his position is no longer legally valid. This kind of pressure makes him unfit to carry out the responsibilities of the government, so in principle he must be removed from his position because he no longer meets the leadership requirements in the caliphate structure.

# Results of the Analysis of the Vice President's Impeachment in the Perspective of Indonesian Law and Fiqh Siyasah: A Case Study of Gibran Rakabuming Raka

(Verdict Court Constitution Nomor 90/PUU-XXI/2023, 2023) who elected Gibran Rakabuming Raka as Vice President of the Republic of Indonesia for the 2024–2029 period has sparked public controversy. Gibran's family relationship with the then Chief Justice of the Constitutional Court, Anwar Usman, and the change in the age



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requirements of vice presidential candidates carried out ahead of the election are two important aspects of this polemic. The public considers the process to create a significant conflict of interest and violate constitutional ethics.

Although Gibran is formally recognized as vice president, many question his moral and constitutional legitimacy. Legally, there is no criminal offense or clear violation of the constitution that can be used as the basis for impeachment at this time, except for the alleged reprehensible act committed by the Fufufafa account allegedly belonging to Gibran. This allegation made the TNI Retired Forum propose the impeachment of the Vice President of Indonesia, Gibran Rakabuming Raka. Therefore, the emergence of the discourse of impeachment of Gibran shows the tension between the legal and moral elements of our constitutional system. However, from the perspective of fiqh siyasah, the sustainability of power is judged from the point of view of maqasid asy-shari'ah and maslahah ammah apart from the legal point of view.

According to the author, Indonesian law and Fiqh Siyasah views the proposed impeachment of the Vice President of Indonesia, Gibran Rakabuming Raka as appropriate and meets the requirements for impeachment. We see, in the 1945 Constitution article 7A says, "The President and/or Vice President can be dismissed from office by the People's Consultative Assembly (MPR) on the proposal of the House of Representatives (DPR), either if it is proven that they have committed a violation of the law in the form of treason against the state, corruption, bribery, other serious criminal acts, or reprehensible acts, or if it is proven that they are no longer qualified as President and/or Vice President." The most complete element is reprehensible acts.

In the framework of Fiqh Siyasah, the criteria for impeachment are in accordance with the view of al-Mawardi who states that a caliph or head of state who carries out the rights of the ummah as a whole has in essence fulfilled his obligations to Allah SWT. This includes both the fulfillment of human rights and the responsibilities attached to it. Therefore, the head of state or caliph has the right to obtain obedience from his people and support in managing the government effectively, as long as the character and integrity of the caliph remain consistent and do not undergo negative changes. (Al- Mawardi , 2014)

A caliph who undergoes a change in character or behavior must be dismissed from his position. The forms of change include:

- 1. The integrity of the individual is disturbed, for example when he engages in behavior that is contrary to religious teachings, commits despicable acts, follows lust and impulses, and gives an interpretation of ambiguous things erroneously resulting in interpretations that are contrary to the truth.
- 2. There are imperfect physical conditions, such as deficiencies in the five senses, certain parts of the body, and limitations in the ability to make movements.

Al-Mawardi also emphasized that the people have the legitimacy to change the head of state or caliph. This authority can be activated if the head of state is proven to have committed two specific types of violations. (Al-Mawardi , 2014)

- 1. Dishonesty can be categorized into two main aspects, namely related to personal integrity and loyalty to the state, and related to religious beliefs and values adhered to.
- 2. Disturbances in the five senses that result in inability to carry out their duties and responsibilities. In this case, Al-Mawardi classifies the disorder into three types, namely: a) loss of function of the five senses, b) loss of limbs, and c) loss of freedom of movement.

The dismissal of the head of state can occur if: (D, 1966)

- 1. The Caliph is dishonest, heretical, unjust, and sinful;
- 2. Physically and mentally weak, such as crazy and incapable of carrying out their responsibilities and duties;
- 3. Lost his freedom due to enemy captivity.



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A good caliph/head of state who is flawless, and whose actions are not contrary to the shari'a, the ummah is obliged to support and obey him. But if he deviates from the provisions of the Shari'ah, then the people must choose between two actions to him, namely to restore him from doing wrong to doing good, or to remove him from his position and give the position to someone else. (Ash- Shalabi , 2017; D , 1966)

Therefore, the law in Indonesia with Fiqh Siyasah in terms of the impeachment of the deputy head of state has similarities, namely that if the leader commits a reprehensible act, both before being appointed and afterwards, it can be impeached.

# **CONCLUSION**

Impeachment, which is a very important constitutional tool to ensure that the country's top officials, including the vice president, are accountable to the presidential system. In the Indonesian context, the 1945 Constitution establishes a clear impeachment procedure, with the House of Representatives, the Constitutional Court, and the MPR working together as a balancing act. However, the success of impeachment is influenced by other factors such as law, public ethics, and moral legitimacy.

According to fiqh siyasah, leaders who are not trustworthy, betray the community, or do not perform their duties in a fair and beneficial way can be removed from power. This shows that Islam emphasizes moral qualities and responsible leaders more than formal rules.

The case of vice president Gibran Rakabuming shows our political ethics and democratic system. Controversy over the nomination process and conflicts of interest led to debates about the legitimacy and ethics of impeachment, even though he had been in office legally. The principles of public interest and social justice must underlie leadership. Impeachment, both in Indonesia and in fiqh siyasah, is a way to correct the power imbalance. Therefore, it is imperative that the process is carried out objectively, through a fair legal mechanism, and with deep moral considerations to safeguard the integrity of the state and the welfare of the people.

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