

Dynamics Of Election Supervision Authority By The Constitutional Court Of The Republic Of Indonesia After The Revision Of The Election Law: A Review Of Constitutional Law

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Abstract

This study examines the changes in the Constitutional Court's authority regarding election supervision and its implications for the principle of people's sovereignty within Indonesia's constitutional law system. The research adopts a normative legal method employing statutory, conceptual, and case approaches. The findings reveal that amendments through Law No. 7 of 2023 and Constitutional Court Regulation No. 4 of 2023 have expanded the Court's authority beyond adjudicating election disputes to supervising electoral processes constitutionally. This expansion strengthens the protection of citizens' voting rights but may disrupt the balance between judicial and administrative functions in a democratic framework. The implications for people's sovereignty are ambivalent: while enhancing constitutional justice, it simultaneously risks transferring part of the people's sovereign power to the judiciary. Thus, proportional authority, decision transparency, and institutional capacity strengthening are essential to ensure that the reform reinforces rather than undermines democratic sovereignty.

Keywords: Constitutional Court, Election, Supervision, People's Sovereignty, Democracy

Abstrak

Penelitian ini menganalisis perubahan kewenangan Mahkamah Konstitusi (MK) dalam pengawasan pemilu dan implikasinya terhadap prinsip kedaulatan rakyat dalam sistem hukum tata negara Indonesia. Metode yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan, konseptual, dan kasus. Hasil penelitian menunjukkan bahwa perubahan regulasi melalui Undang-Undang Nomor 7 Tahun 2023 dan Peraturan MK Nomor 4 Tahun 2023 memperluas kewenangan MK tidak hanya sebagai pengadil sengketa hasil, tetapi juga sebagai pengawas konstitusional terhadap proses pemilu. Perluasan ini memperkuat mekanisme perlindungan hak pilih rakyat sekaligus menghadirkan potensi ketidakseimbangan antara fungsi yudisial dan administratif dalam sistem demokrasi. Implikasi terhadap kedaulatan rakyat tampak ambivalen: di satu sisi meningkatkan keadilan konstitusional, namun di sisi lain berisiko memindahkan sebagian kedaulatan rakyat ke ranah yudisial. Oleh karena itu, dibutuhkan pengaturan kewenangan yang proporsional, transparansi putusan, dan penguatan kapasitas kelembagaan MK agar perubahan tersebut memperkuat, bukan melemahkan, kedaulatan rakyat.

Kata Kunci: Mahkamah Konstitusi, Pemilu, Pengawasan, Kedaulatan Rakyat, Demokrasi

A. Introduction

Supervision of general elections (elections) has a fundamental position in the Indonesian constitutional system because it is the main instrument to ensure the realization of the principles of democracy and the implementation of people's sovereignty as stipulated in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (1945 Constitution) which affirms that "sovereignty is in the hands of the people and is implemented according to the Constitution."¹ Honest and fair elections are a concrete embodiment of this principle; therefore, supervision of all stages of the election is not only administrative, but also constitutional.² In the context of constitutional law, the election supervision mechanism is intended to uphold the principles of direct, public, free, secret, honest, and fair elections as stated in Article 22E paragraph (1) of the

¹ Constitution of the Republic of Indonesia in 1945.

² Dinaka and Arsil, "Returning the Function of Election Supervision to the Community as a Form of Democratic Election Implementation."

1945 Constitution, as well as ensuring the accountability of election organizers within the framework of checks and balances between state institutions.³

The involvement of the Constitutional Court (MK) in election supervision began with the affirmation of its authority in Article 24C paragraph (1) of the 1945 Constitution, which states that the Constitutional Court has the authority to adjudicate at the first and last levels whose decisions are final to, among other things, decide disputes about the results of the general election. This provision was then further regulated in Law Number 24 of 2003 concerning the Constitutional Court as last amended by Law Number 7 of 2020.⁴ Within this normative framework, the Constitutional Court is the only judicial institution that has the authority to decide disputes over the results of legislative elections and presidential/vice presidential elections, so that it has an important role in maintaining the legitimacy of election results and ensuring that people's sovereignty is not harmed by irregularities in processes and results.⁵ The role of the Constitutional Court's supervision is increasingly strategic after the birth of Law Number 7 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2022 as an Amendment to Law Number 7 of 2017 concerning General Elections, which expands coordination between election organizing institutions and strengthens the mechanism for resolving disputes over election results through constitutional channels.⁶

These changes give rise to new implications in constitutional law. The revision of the Election Law regulates more strictly the functional relationship between the KPU, Bawaslu, and the Constitutional Court, especially in the context of verification of violations and the resolution of dispute results. Article 475 paragraph (1) of Law Number 7 of 2017 (as amended) emphasizes that "election participants can submit an application for the cancellation of the determination of election results by the KPU to the Constitutional Court."⁷ However, what is interesting is the emergence of a new interpretation of the scope of the "election results" that can be disputed.⁸

In the Constitutional Court Decision Number 85/PUU-XX/2022, for example, the Constitutional Court expanded the meaning of the dispute over results by assessing that the validity of certain stages can also be an object of assessment if it has a direct impact on the final result.⁹ The ruling set an important precedent because it showed the Constitutional Court's tendency to not only act as a court of results, but also as a guardian of the integrity of the process. Furthermore, the Constitutional Court's Decision Number 90/PUU-XXI/2023 related to the age limit for presidential-vice presidential candidates reaffirms the Constitutional Court's position as a central actor in ensuring the implementation of constitutional elections. Although the decision was discussed more from a political and legal perspective, from the perspective of constitutional law, he emphasized the breadth of the scope of the Constitutional Court's interpretive authority over election provisions, including aspects that were previously considered purely legislative.¹⁰

This widespread authority has given rise to an academic debate about the limits of the Constitutional Court's role in the election supervision system. Some experts consider that the expansion of the role of the judiciary has the potential to shift the function of the election organizing institution which is administrative in nature, while others see it as a constitutional

³ Mustajib, "People's Sovereignty in Elections and Regional Elections: Between Constitutional Idealism and Money Politics Practice."

⁴ "Law Number 7 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2022 concerning Amendments to Law Number 7 of 2017 concerning General Elections into Law."

⁵ Mustajib, "People's Sovereignty in Elections and Regional Elections: Between Constitutional Idealism and Money Politics Practice."

⁶ Rezah dan Sapada, "Implications of Constitutional Court Decision Number 85/PUU-XX/2022 for the Dispute Resolution of Regional Head Election Results," 2024.

⁷ Kartika, "Fungsi Mahkamah Konstitusi dalam Sistem Pemilihan Umum dalam Rangka Penegakan Negara Hukum dan Demokrasi."

⁸ Baharuddin Riqiey, "Kewenangan Mahkamah Konstitusi Dalam Memutus Perselisihan Hasil Sengketa Pilkada Pasca Putusan Mahkamah Konstitusi Nomor 85/PUU-XX/2022."

⁹ "Constitutional Court Decision Number 85/PUU-XX/2022 concerning the Testing of Law Number 10 of 2016 concerning the Election of Regional Heads."

¹⁰ "Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023 tentang Sengketa Pemilihan Umum dan Ambang Batas Pencalonan Presiden."

necessity to ensure electoral justice.¹¹ On the other hand, the latest implementation regulations such as Constitutional Court Regulation Number 4 of 2023 concerning Procedural Procedures in Disputes Over the Results of the Presidential and Vice Presidential Elections also show the direction of institutional reform by adjusting dispute resolution procedures to be more responsive to the challenges of digitalization and public transparency. Thus, these changes in judicial regulations and practices create new research space to analyze how the Constitutional Court carries out its election supervision function in a dynamic constitutional context, especially after the revision of the 2023 Election Law.¹²

Previous studies have highlighted some aspects of the Constitutional Court's role in elections, but still leave a void in the dimension of the dynamics of authority after the revision of the Election Law. Banafanu's research reviews the authority of the Constitutional Court in resolving general election disputes in general, but has not examined the latest normative changes.¹³ Meanwhile, Riqiey's study¹⁴ highlights the implications of the Constitutional Court Decision Number 85/PUU-XX/2022 on the Constitutional Court's authority in election disputes, but does not link it systemically to changes in the constitutional legal structure.¹⁵

Hantoro's research¹⁶ examines judicial restrictions and the expansion of the Constitutional Court's authority in deciding election disputes, but the focus is still on internal juridical analysis without elaborating on the relationship between these authorities and the principles of people's sovereignty and democratic legitimacy. The three studies are important as a foundation, but have not yet captured the latest transformation of the role of the Constitutional Court in the context of election supervision as regulated in Law Number 7 of 2023 and Constitutional Court Regulation Number 4 of 2023.¹⁷

This topic has become increasingly relevant considering that the 2024 simultaneous elections show new complexities in implementation, including the use of electronic recapitulation systems, shifts in campaign patterns in digital media, and potential disputes involving aspects of information technology and voter data protection.¹⁸ These dynamics demand a reinterpretation of the concepts of "election results" and "electoral processes" within the framework of modern constitutional law. In this case, the Constitutional Court not only functions as *the final arbiter* of election results, but also as *the guardian of constitutional democracy* in charge of ensuring that each stage of the election reflects constitutional principles.¹⁹ Therefore, it is important to examine how changes in judicial regulations and practices after the revision of the Election Law affect the election supervision system, relations between state institutions, and the meaning of people's sovereignty in Indonesian democratic practices.²⁰

This study differs from previous research because it focuses on the "dynamic" dimension of the Constitutional Court's authority after the revision of the Election Law by using a normative-analytical approach to updated primary and secondary legal sources. This approach allows for an

¹¹ Hantoro, "Judicial Restrictions and the Expansion of the Constitutional Court's Authority in Deciding Disputes over Election Results."

¹² "Regulation of the Constitutional Court of the Republic of Indonesia Number 4 of 2023 concerning Procedures in Disputes over the Results of the Presidential and Vice Presidential General Elections."

¹³ Ata Banafanu, Yohanes, and Udju, "The Authority of the Constitutional Court in the Settlement of General Election Disputes in Indonesia."

¹⁴ Baharuddin Riqiey, "The Authority of the Constitutional Court in Deciding Disputes Over the Results of Regional Election Disputes After the Constitutional Court Decision Number 85/PUU-XX/2022."

¹⁵ Baharuddin Riqiey.

¹⁶ Hantoro, "Judicial Restrictions and the Expansion of the Constitutional Court's Authority in Deciding Disputes over Election Results."

¹⁷ "Regulation of the Constitutional Court of the Republic of Indonesia Number 4 of 2023 concerning Procedures in Disputes over the Results of the Presidential and Vice Presidential General Elections."

¹⁸ Faiz, "Strengthening the Principles of Orderly, Free, and Fair Elections Through Testing the Constitutionality of the Law," 2023.

¹⁹ Fakhlevi, Asnawi, dan Kadaryanto, "Kewenangan Mahkamah Konstitusi dalam Penyelesaian Sengketa Pemilu Berdasarkan Hukum Positif Indonesia."

²⁰ Dinaka dan Arsil, "Pengembalian Fungsi Pengawasan Pemilu Kepada Masyarakat Sebagai Wujud Penyelenggaraan Pemilu Yang Demokratis."

analysis that not only assesses changes in the legal text, but also its implications for the constitutional structure, the principle of people's sovereignty, and the legitimacy of elections.²¹

By combining analysis of the 1945 Constitution, Law Number 7 of 2023, Constitutional Court Regulation Number 4 of 2023, and Constitutional Court decisions Number 85/PUU-XX/2022 and 90/PUU-XXI/2023, this research is expected to provide a comprehensive understanding of the direction of the development of Indonesian constitutional law in the context of electoral democracy.²² Furthermore, the results of this study are expected to be a reference in the formulation of policies and regulations that ensure that the election supervision mechanism by the Constitutional Court remains proportional, accountable, and in line with the principle of people's sovereignty which is the basis for the establishment of a democratic legal state.²³

B. Research Methods

The research method used in this paper is normative legal research, *which is research that focuses on the study of the applicable positive legal norms and the legal principles that underlie them*.²⁴ This research aims to examine the relationship between constitutional provisions, laws, and implementing regulations that regulate the authority of the Constitutional Court in supervising general elections after the revision of Law Number 7 of 2023. The approach used includes a *statute approach*,²⁵ by systematically examining the 1945 Constitution, Law Number 7 of 2023, and Constitutional Court Regulation Number 4 of 2023, as well as a *conceptual approach*, which is used to examine the concept of people's sovereignty and election supervision from the perspective of constitutional law.²⁶

In addition, this study also uses a *case approach* by analyzing two important decisions of the Constitutional Court, namely Decision Number 85/PUU-XX/2022 and Number 90/PUU-XXI/2023, to understand how the judicial interpretation of the Constitutional Court affects the structure of election supervision. The legal materials used consist of primary legal materials in the form of laws and regulations and Constitutional Court decisions, secondary legal materials in the form of literature, journals, and previous research results, as well as tertiary legal materials such as legal dictionaries and legal encyclopedias.²⁷ The technique of collecting legal materials is carried out through literature studies, while data analysis is carried out qualitatively descriptive, namely by describing the content of norms, interpreting their meaning systematically, and drawing argumentative conclusions to answer the formulation of research problems.²⁸ The problem formulation is: One, how does the Constitutional Court's change in election supervision regulations affect the supervision system in the context of constitutional law? Two what are the implications of the changes in the Constitutional Court's authority for the principle of popular sovereignty in elections?

²¹ Zulkarnain, "Pembentukan Lembaga Peradilan Khusus Pemilihan Umum Dalam Rangka Mewujudkan Electoral Justice System."

²² "Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023 tentang Sengketa Pemilihan Umum dan Ambang Batas Pencalonan Presiden."

²³ Ulum, "Evaluasi Kewenangan Mahkamah Konstitusi Memutus Perselisihan Hasil Pemilihan Umum Kepala Daerah."

²⁴ Arifin, Bayhaqi, dan Pradhan, "Urgency supreme court circular letter number 2 of 2023 in the judicial process of interfaith marriage registration."

²⁵ Handayani dan Arifin, "Penerapan Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 tentang prosedur mediasi di masa pandemi COVID-19 (Studi di Pengadilan Agama Kabupaten Kediri)."

²⁶ Arifin dan Handayani, "Quo Vadis Kebijakan Penyusunan Kabinet Koalisi Jokowi Tinjauan Filosofis, Historis, Teoritis dan Yuridis."

²⁷ Arifin, Handayani, dan Virdaus, "Deradikalisasi pluralisme pemahaman terhadap ideologi Pancasila melalui media sosial."

²⁸ ARIFIN et al., "A Does Media Play an Important Roles in Regional Election? A Pers Law Perspective."

C. Discussion

Changes in Election Supervision Regulations by the Constitutional Court affect the supervisory system in the context of constitutional law.

The change in election supervision regulations by the Constitutional Court (MK) after the revision of the Election Law has resulted in a shift in functions, inter-institutional relations, and normative conceptions of what constitutes the object of judicial supervision in election governance, a dynamic that in the study of constitutional law must be analyzed not only from a technical procedural perspective, but as a change in the institutional structure that changes the balance of checks and balances and the meaning of people's sovereignty.

Historically, the Constitutional Court's authority to decide disputes over election results is rooted in Article 24C and Article 22E of the 1945 Constitution, which place the Constitutional Court as a constitutional arbiter of disputes over election results disputes at the first and last levels; however, a literal reading of the constitutional text is not enough to understand the actual scope of the Constitutional Court's authority because its practice is always determined by judicial interpretation, legal arrangements, and binding procedural regulations, including the Constitutional Court's Regulations.

The latest changes, such as the ratification of Law Number 7 of 2023 which stipulates Perppu Number 1 of 2022 into law and the adoption of Constitutional Court Regulation Number 4 of 2023 concerning the procedures of the PHPU President and Vice President, show that the arena of election supervision is now increasingly complex and involves new normative considerations, for example regarding the relationship between the cancellation of the determination of administrative results and the evaluation of election stages Substantive.²⁹ These regulatory changes have a direct impact on the election supervision system in the first way: expanding the scope of objects that can be submitted as disputes to the Constitutional Court. In the Constitutional Court Decision Number 85/PUU-XX/2022, there is a tendency to accept arguments that certain aspects of the election stages that are considered to have a material influence on the final result can be material for judicial assessment because they have implications for the legitimacy of the results.³⁰ The normative implication of this expansion of the object is the change in the function of the Constitutional Court from a "final result examiner" to a kind of "process integrity guard" position that forces a review of the line of competency separation between judicial jurisdiction (MK) and administrative jurisdiction or factual supervision (KPU/Bawaslu).

Second, changes in the Constitutional Court's regulations and practices change the functional relationship between election organizing institutions: when the Constitutional Court expands its judicial intervention to administrative stages, the KPU and Bawaslu face the risk of judicial subordination that can create uncertainty in the implementation of administrative tasks and reduce the capacity of the organizing institution to resolve internal administrative disputes quickly and definitively. On the contrary, from the perspective of protecting citizens' political rights, adequate judicial intervention can improve the accountability of organizers and provide a remedy if administrative mechanisms fail to enforce the rules fairly.³¹

Third, from the point of view of constitutional law, the tendency of the Constitutional Court to fill normative gaps or interpret laws extensively raises important questions about the principle of separation of powers and the legitimacy of democracy. The Constitutional Court, which is increasingly dominant in resolving election disputes, can indeed strengthen the rule of law and procedural justice, but at the same time place political decisions that are essentially collective—the result of the people's choice—in the final and binding judicial realm. This phenomenon requires normative reflection on whether people's sovereignty as a constitutional principle is maintained if

²⁹ “Peraturan Mahkamah Konstitusi Republik Indonesia Nomor 4 Tahun 2023 tentang Tata Beracara dalam Perkara Perselisihan Hasil Pemilihan Umum Presiden dan Wakil Presiden.”

³⁰ Rezah dan Sapada, “Implications of Constitutional Court Decision Number 85/PUU-XX/2022 for the Dispute Resolution of Regional Head Election Results,” 27 Desember 2024.

³¹ Ata Banafanu, Yohanes, dan Udju, “Kewenangan Mahkamah Konstitusi dalam Penyelesaian Sengketa Pemilihan Umum di Indonesia.”

the substance of people's decisions is often changed or canceled through judicial decisions that have a wide political impact.³²

Fourth, regulatory changes also present operational and normative challenges related to evidence and procedures, especially in the digital era. Constitutional Court Regulation No. 4 of 2023 adjusts the procedural procedures to modern demands such as electronic record-based proof mechanisms, electronic recapitulation data, and other digital evidence. However, the acceptance of electronic evidence and the evaluation of its authenticity require the Constitutional Court to build technical capacity and new probative standards so that judicial decisions do not cast doubt on the factual verification process and do not create precedents that are prone to repeated litigation.³³

Fifth, from the perspective of constitutional law, the dynamics of the Constitutional Court's authority affect the national checks and balances model: if the Constitutional Court too often enters the administrative realm of elections, then the role of political oversight (parliamentary oversight), public accountability to the KPU, and the preventive function of Bawaslu can be decentralized into judicial polemics; On the contrary, if the Constitutional Court is too restrictive, then the constitutional right of citizens to get remediation for election violations can experience a vacuum.

Changes in regulations that provide greater space for the Constitutional Court to play a role require a clear harmonization mechanism between the Election Law, the Constitutional Court Law, and the Constitutional Court's procedural regulations so that competencies do not overlap but complement each other in ensuring the sovereignty of the people.³⁴ The implications for the legitimacy of democracy must be analyzed multidimensionally: the legality of the Constitutional Court's decision certainly contributes to legal legitimacy, but political legitimacy also depends heavily on public perception of the independence and neutrality of the Constitutional Court and the transparency of the dispute resolution process. Therefore, the expansion of the Constitutional Court's authority that is not accompanied by efforts to increase transparency, accountability, and public communication can cause political resistance and a crisis of legitimacy that ironically weakens the sovereignty of the people instead of strengthening it.³⁵

Post-revision empirical studies show that some of the disputes submitted to the Constitutional Court post-2022–2023 contain dimensions that were originally considered to be the internal administrative realm of the KPU or Bawaslu supervision, but due to their impact on the final result, the plaintiff switched to the constitutional route. The Constitutional Court in several rulings weighed substantial and procedural aspects, thus giving rise to new judicial precedents that will affect future election litigation and force policymakers to rearrange normative norms to be clearer about the limits of the object of dispute.

This is clearly seen in the Constitutional Court's Decision Number 90/PUU-XXI/2023, where the Constitutional Court emphasized the importance of process integrity and substantive justice in assessing election disputes that have implications for the legitimacy of the results. A comparative perspective shows that the phenomenon of expanding the role of the constitutional court in election disputes is not unique to Indonesia; Constitutional democracies such as South Korea, Germany, and South Africa also face a similar dilemma between judicial function and political legitimacy, where the expansion of constitutional jurisdiction is balanced by increased transparency and procedural fairness.³⁶

³² Hantoro, "Pembatasan Yudisial dan Perluasan Kewenangan Mahkamah Konstitusi dalam Memutus Sengketa Hasil Pilkada."

³³ Fakhlevi, Asnawi, dan Kadaryanto, "Kewenangan Mahkamah Konstitusi dalam Penyelesaian Sengketa Pemilu Berdasarkan Hukum Positif Indonesia."

³⁴ "Undang-Undang Nomor 7 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2022 tentang Perubahan atas Undang-Undang Nomor 7 Tahun 2017 tentang Pemilihan Umum menjadi Undang-Undang."

³⁵ Purnama dan Rosidin, "Dinamika Kewenangan Mahkamah Konstitusi Dalam Menyelesaikan Perselisihan Hasil Pemilihan Umum Kepala Daerah Serta Implikasinya Terhadap Pemilihan Umum Serentak Tahun 2024."

³⁶ Zulkarnain, "Pembentukan Lembaga Peradilan Khusus Pemilihan Umum Dalam Rangka Mewujudkan Electoral Justice System."

The normative recommendations that emerged from this analysis include: (1) clarification of legislation regarding the object and competence of resolving election disputes to reduce jurisdictional uncertainty, (2) strengthening electronic evidentiary procedures and probative standards in the Constitutional Court, (3) formal coordination mechanisms between the KPU, Bawaslu, and the Constitutional Court to accelerate dispute resolution and prevent overlapping authority, and (4) increasing transparency and public communication of the Constitutional Court to maintain political legitimacy decision. In other words, the Constitutional Court's changes in election supervision regulations have shifted the balance in the national election supervision system—from a system that originally divided administrative and judicial roles firmly, to a system that places the Constitutional Court as a key actor in ensuring the integrity of elections substantively. Institutional adaptation, regulatory harmonization, and technical capacity building as well as efforts to strengthen its legitimacy in the eyes of the public are absolute requirements so that the expansion of this authority does not lead to constitutional dysfunction, but instead strengthens the principles of democracy and people's sovereignty.

Implications of the change in the authority of the Constitutional Court (MK) on the principle of people's sovereignty in elections

The change in the authority of the Constitutional Court in the context of elections has very significant implications for the principle of people's sovereignty, both from normative, institutional and democratic practice aspects. The principle of people's sovereignty contained in Article 1 paragraph (2) of the 1945 Constitution states that "sovereignty is in the hands of the people and is carried out according to the Constitution", and Article 22E paragraph (1) emphasizes that "General elections shall be held directly, publicly, freely, secretly, honestly, and fairly every five years".³⁷ Elections are not just a technical procedure but a manifestation of the exercise of the highest power of citizens in choosing their representatives and determining the political direction of the government. When the Constitutional Court obtains regulations that expand its supervisory authority, for example through Law Number 7 of 2023 which stipulates the Perppu and Constitutional Court Regulation Number 4 of 2023 concerning Procedural Procedures in Disputes over the Results of the Presidential and Vice Presidential Elections, institutionally the Constitutional Court is getting closer to the central point of influence on the election results and process. In this context, the change presents two main implications: first, the implications for the exercise of direct people's sovereignty and second, the implications for the legitimacy of democracy and the system of checks and balances in the framework of constitutional law.

On the side of the direct implementation of people's sovereignty, the expansion of the Constitutional Court's authority can be seen as strengthening the remedy for citizens: if the implementation of elections does not run according to the principles of direct, public, free, secret, honest and fair, then the Constitutional Court with its authority can be the last resort to uphold the right to vote and the right to be elected. Research such as Banafanu, Yohanes in *Comserva* shows that the authority of the Constitutional Court in resolving election disputes has a positive impact on democracy because it provides a judicial mechanism to correct procedural injustices that occur in elections.³⁸

Thus, from the perspective of voters, the existence of a more effective Constitutional Court in supervision contains the potential to strengthen the people's presence in the political system and affirm that the people's voice is not only symbolic, but can be accounted for through the legal process. However, on the other hand, this expansion of authority also presents a risk to the people's sovereignty if the Constitutional Court judicially decides issues that were originally in the domain of administrative administrators (such as the KPU or Bawaslu) or even the legislature—for example, determining aspects of election norms that should be the domain of lawmakers; This phenomenon raises concerns that the voice of the people is alienated when the supposedly collective political process is shifted to the judicial realm.

³⁷ Constitution of the Republic of Indonesia in 1945.

³⁸ Ata Banafanu, Yohanes, and Udju, "The Authority of the Constitutional Court in the Settlement of General Election Disputes in Indonesia."

Mustajib's publication in *the Glorification of Justice* emphasizes that the existence of an extensive judicial interpretation of the electoral mechanism can reduce the space for direct public participation and strengthen the dominance of the judiciary rather than the direct representative mechanism. Between strengthening the remedy and the potential transfer of power lies the tension and implications for the sovereignty of the people.³⁹

Institutionally, the change in the authority of the Constitutional Court has shaken the framework of checks and balances in constitutional law. The ideal election system places the KPU and Bawaslu as administrative organizers who manage the elections, while the judicial institution (MK) handles disputes that arise after the process—as part of the prevention and correction mechanism. However, through decisions such as the Constitutional Court Decision Number 85/PUU-XX/2022 which cancels Article 157 paragraph (1), (2), (3) of Law Number 10 of 2016 and implies that the Constitutional Court will continue to adjudicate disputes over the election of regional heads without the establishment of a special judicial body, the pattern of authority that was initially temporary has changed to permanent.⁴⁰

This shift raises the implication that the Constitutional Court is no longer just a "court of results" but an important actor in the "supervision of election results and processes". From the perspective of constitutional law, this increases the role of the judiciary in the domain of democracy—a change that must be seen as an institutional evolution, but also as a potential change in the balance of state institutions within the framework of people's sovereignty. If the people vote through elections, and the results of the elections can be changed or annulled through a very broad judicial decision, then the question arises: Does the judicial authority actually replace or complement the sovereignty of the people? This aspect is crucial in ensuring that the supervision mechanism does not actually reduce the political legitimacy of the people.

The legitimacy of democracy is the next area of implication. In constitutional democracy, legitimacy comes from two sources: legal legitimacy and political legitimacy. The Constitutional Court, with its expanding authority, can strengthen the legitimacy of the law—its decisions are final and binding, thus resolving disputes in a conclusive manner. Faiz's article in *the Constitutional Journal* said that the Constitutional Court has strengthened the principle of orderly, free, and fair elections through testing the constitutionality of the law, so that the judiciary's contribution to democracy is more real.⁴¹

However, in terms of political legitimacy, the public demands clarity that their votes are not only counted, but also respected and represented meaningfully. When the Constitutional Court makes decisions that change the results or stages of the election, the public's perception of its role as the guardian of the people's sovereignty is highly dependent on the transparency, independence and juridical basis of the decision. Criticism of the Constitutional Court as "entering and taking legislative authority" in the case of the separation of national and local elections by NasDem shows that if the public sees the Constitutional Court as an institution that makes new norms or decides on the basis of overly broad interpretations without clear political legitimacy, then it can weaken public trust and ultimately erode the sovereignty of the people themselves.⁴²

In the future, the implications of changing the authority of the Constitutional Court on the sovereignty of the people also touch the dimensions of access to justice and the people's sense of justice. With broader authority, the Constitutional Court becomes a 'super path' for resolving election disputes which can mean that the people have greater expectations for obtaining remediation if the election is not ideal; On the other hand, if the Constitutional Court is too hampered by procedures, burdens, or time certainty, then the slow resolution of disputes can hinder the passage of people's sovereignty into an effective political option. Ulum's article in *Lentera Hukum* emphasizes that the Constitutional Court's great authority in deciding disputes over the

³⁹ Mustajib, "People's Sovereignty in Elections and Regional Elections: Between Constitutional Idealism and the Challenges of Widespread Money Political Practices Mustajib 1 . PE N MUAA N which is affirmed in Article 1 paragraph (2) of the Constitution of the Republic of Indonesia and the minimal effect."

⁴⁰ Nasution, "Nasution's Peace Sign."

⁴¹ Faiz, "Strengthening the Principles of Orderly, Free, and Fair Elections Through Testing the Constitutionality of the Law," 2018.

⁴² Fika Nurul Ulya, "NasDem: MK Is Stealing People's Sovereignty!"

results of the regional head election creates a burden on the institution that is not balanced with its capacity, so that the potential backlog and uncertainty of decisions become a risk to the people's trust.⁴³ So, from the perspective of people's sovereignty, it is not only important that the Constitutional Court has authority, but also that this authority is exercised effectively, transparently, and responsively.

Another equally important implication is the role of political participation and people's perception of the election mechanism. As the Constitutional Court expands the scope of the object of supervision to the stage or procedural aspects, the public may see that supervision is not only limited to the final outcome, but also that the process becomes more "open" to judicial control. This can encourage increased participation of the people because of the sense that their voice has a place not only during voting, but also during dispute resolution. But on the other hand, if the public feels that judicial decisions predict or intervene significantly in the election results, then the perception that "the people's vote is determined by the judges" can arise. This can erode the sense of participation and sovereignty of the people psychologically. Kartika's study in *the Pro Law Journal* emphasizes that the Constitutional Court as the "guardian of the constitution" in elections must maintain a balance between relative settlement and democratic legitimacy so that it is still perceived as a servant of the people's sovereignty rather than a substitute.⁴⁴

Furthermore, the implications for the regulatory structure and politics of elections are also important in the framework of people's sovereignty. With the increasingly decisive authority of the Constitutional Court, policymakers (legislative and executive) need to adjust the election legislation process to be clearer in defining the object and limits of dispute authority. The absence of clear rules or ambiguous regulations allows the Constitutional Court to make interpretive decisions that can be interpreted as the "new norm", which according to critics can reduce the political space of the people to make changes through the legislative process or through the choice of the people's representatives. Mustajib highlighted that the implementation of parliamentary thresholds and strong judicial intervention can erode the people's sovereignty in the practice of legislative elections because the people's choice is limited by norms set by the people themselves.⁴⁵ Thus, regulations that give broad authority to the Constitutional Court must also be balanced with prevention rules and mechanisms for people's participation that remain strong.

In order to maintain that the change in the authority of the Constitutional Court does not weaken the sovereignty of the people but rather strengthens it, there are several institutional conditions that must be met: first, there is a need for public transparency of the election dispute court process at the Constitutional Court, including the publication of the reasons for the decision, processing time, and the involvement of the applicant/party. Second, the capacity of the Constitutional Court must be improved both in terms of technical, human resources and procedures so that dispute resolution takes place quickly and fairly, so as not to hinder citizens' voting rights and voting rights. Third, the harmonization of regulations between the Election Law, the Constitutional Court Law, and implementing regulations such as PMK must be regulated so that there is no overlap of authority that can cause uncertainty or functional conflict between election organizing institutions. Fourth, the mechanism for public consultation and access to simple litigation for citizens must be guaranteed so that the judicial process does not appear elite or closed, as this will erode the perception that the people's sovereignty is really exercised by the people. With the fulfillment of these conditions, the expansion of the Constitutional Court's authority can be a strategic instrument in strengthening democracy and the sovereignty of the people, not an obstacle for them.

In short, the implications of changing the Constitutional Court's authority on people's sovereignty in elections contain two sides: the potential for strengthening through stronger judicial mechanisms, but also the potential for erosion if regulations, capacity, and public perception are

⁴³ Ulum, "Evaluation of the Authority of the Constitutional Court Decides Disputes of the General Election of Regional Heads."

⁴⁴ Kartika, "THE FUNCTION OF THE CONSTITUTIONAL COURT IN THE GENERAL ELECTION SYSTEM IN THE CONTEXT OF THE ENFORCEMENT OF THE RULE OF LAW AND DEMOCRACY."

⁴⁵ Bachmid, "The Existence of People's Sovereignty and the Implementation of the Parliamentary Threshold in the General Election System in Indonesia."

not adequately met. As an increasingly important institution in Indonesia's electoral system, the Constitutional Court must play a role that is not only a dispute adjudicator but also an enforcer of people's sovereignty—which means that the people's voice must remain at the center of the democratic process. This institutional transformation must be balanced with the supremacy of norms, transparency, and people's participation so that the people's sovereignty mandated by the 1945 Constitution is not only a constitutional slogan but is manifested in real and fair election practices.

D. CONCLUSION

In conclusion, changes in election supervision regulations involving the expansion of the authority of the Constitutional Court (MK) have changed the legal structure of Indonesia's constitutional law in the aspect of the implementation of democracy. In the context of election supervision, the amendment strengthens the judicial function of the Constitutional Court as a constitutional guardian that ensures that elections take place in accordance with the principles of direct, public, free, confidential, honest, and fair as mandated by Article 22E of the 1945 Constitution. Through changes regulated in Law Number 7 of 2023 and procedural strengthening through Constitutional Court Regulation Number 4 of 2023, the Constitutional Court is now playing a more active role in supervising and adjudicating disputes over election results. Normatively, this strengthens the principle **of the rule of law** and opens up space for people to get constitutional justice if their voting rights are violated. However, from the perspective of the constitutional system, this expansion also poses challenges in the form of potential overlapping authority between the election organizing institutions (KPU and Bawaslu) and the Constitutional Court, which if not regulated proportionately can cause an imbalance between administrative functions and judicial functions in the democratic system.

Furthermore, the implications of changing the authority of the Constitutional Court on the principle of people's sovereignty have two opposite sides. On the one hand, the Constitutional Court acts as the last guardian of the purity of the people's vote, ensuring that the election results truly reflect the will of the sovereign people. This authority makes the Constitutional Court an important instrument in maintaining the legitimacy of Indonesia's constitutional democracy. On the other hand, if the authority is used extensively without clear normative limits, it can shift the essence of people's sovereignty from the hands of voters to the judicial chamber. Therefore, the balance between constitutional supremacy and the supremacy of the people must be maintained through transparency of decisions, clarity of authority limits, and increasing the institutional capacity of the Constitutional Court so that it remains the protector of the constitutional rights of citizens without reducing the meaning of the people's political participation in determining the future of their nation.

E. References

- Arifin, Zainal, Naufal Ghani Bayhaqi, dan David Pradhan. "Urgency supreme court circular letter number 2 of 2023 in the judicial process of interfaith marriage registration." *Journal of Law and Legal Reform* 5, no. 1 (2024): 137–78. <https://doi.org/10.15294/jllr.vol5i1.2101>.
- Arifin, Zainal, E P Handayani, dan S Virdaus. "Deradikalisasi pluralisme pemahaman terhadap ideologi Pancasila melalui media sosial." *Dalam Jurnal Ilmiah Pendidikan Pancasila dan Kewarganegaraan* 7, no. 1 (2022): 161–70.
- Arifin, Zainal, dan Emi Puasa Handayani. "Quo Vadis Kebijakan Penyusunan Kabinet Koalisi Jokowi Tinjauan Filosofis, Historis, Teoritis dan Yuridis." *Khazanah Hukum* 2, no. 1 (2020): 10–23. <https://doi.org/10.15575/kh.v2i1.8282>.
- ARIFIN, ZAINAL, Muhammad Ayman al-Akiti, Emi Puasa Handayani, dan Sholahuddin Al-Fatih. "A Does Media Play an Important Roles in Regional Election? A Pers Law Perspective." *Pena Justisia: Media Komunikasi dan Kajian Hukum* 24, no. 1 (1 Maret 2025): 253–71. <https://doi.org/10.31941/pj.v24i1.5777>.
- Ata Banafanu, R A, S Yohanes, dan H R Udju. "Kewenangan Mahkamah Konstitusi dalam Penyelesaian Sengketa Pemilihan Umum di Indonesia." *COMSERVA: Jurnal Penelitian dan Pengabdian Masyarakat* 3, no. 8 (2023): 45–58. <https://doi.org/10.59141/comserva.v3i08.1095>.

- Bachmid, Fahri. "Eksistensi Kedaulatan Rakyat dan Implementasi Parliamentary Threshold dalam Sistem Pemilihan Umum di Indonesia." *SIGn Jurnal Hukum* 2, no. 2 (19 November 2020): 87–103. <https://doi.org/10.37276/sjh.v2i2.83>.
- Baharuddin Riqiey. "Kewenangan Mahkamah Konstitusi Dalam Memutus Perselisihan Hasil Sengketa Pilkada Pasca Putusan Mahkamah Konstitusi Nomor 85/PUU-XX/2022." *JAPHTN-HAN* 2, no. 1 (31 Januari 2023). <https://doi.org/10.55292/japhtnhan.v2i1.59>.
- Dinaka, Burhan Robith, dan Fitra Arsil. "Pengembalian Fungsi Pengawasan Pemilu Kepada Masyarakat Sebagai Wujud Penyelenggaraan Pemilu Yang Demokratis." *Jurnal Konstitusi & Demokrasi* 3, no. 1 (2023): 58–84.
- Faiz, P M. "Memperkuat Prinsip Pemilu yang Teratur, Bebas, dan Adil Melalui Pengujian Konstitusionalitas Undang-Undang." *Jurnal Konstitusi* 20, no. 4 (2023): 789–808. <https://doi.org/10.31078/jk14310>.
- Faiz, Pan Mohamad. "Memperkuat Prinsip Pemilu yang Teratur, Bebas, dan Adil Melalui Pengujian Konstitusionalitas Undang-Undang." *Jurnal Konstitusi* 14, no. 3 (2018): 672. <https://doi.org/10.31078/jk14310>.
- Fakhlevi, R F, E Asnawi, dan B Kadaryanto. "Kewenangan Mahkamah Konstitusi dalam Penyelesaian Sengketa Pemilu Berdasarkan Hukum Positif Indonesia." *Jurnal Ilmu Hukum "THE JURIS"* 9, no. 1 (2025): 55–70. <https://doi.org/10.59459/thejuris.v9i1.2143>.
- Fika Nurul Ulya, Danu Damarjati. "NasDem: MK Sedang Lakukan Pencurian Kedaulatan Rakyat!" *Kompas*. 2025. https://nasional.kompas.com/read/2025/06/30/21501971/nasdem-mk-sedang-lakukan-pencurian-kedaulatan-rakyat?utm_source=chatgpt.com.
- Handayani, Emi Puasa, dan Zainal Arifin. "Penerapan Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 tentang prosedur mediasi di masa pandemi COVID-19 (Studi di Pengadilan Agama Kabupaten Kediri)." *Jurnal Hukum Acara Perdata* 6, no. 2 (2020).
- Hantoro, B F. "Pembatasan Yudisial dan Perluasan Kewenangan Mahkamah Konstitusi dalam Memutus Sengketa Hasil Pilkada." *Media Iuris* 7, no. 1 (2024): 121–39. <https://doi.org/10.20473/mi.v7i1.40021>.
- Kartika, A W. "Fungsi Mahkamah Konstitusi dalam Sistem Pemilihan Umum dalam Rangka Penegakan Negara Hukum dan Demokrasi." *Jurnal Pro Hukum: Jurnal Penelitian Bidang Hukum* 10, no. 2 (2024): 233–46. <https://doi.org/10.55129/jph.v10i2.1590>.
- Kartika, Adhitya Widya. "FUNGSI MAHKAMAH KONSTITUSI DALAM SISTEM PEMILIHAN UMUM DALAM RANGKA PENEGAKKAN NEGARA HUKUM DAN DEMOKRASI." *Jurnal Pro Hukum : Jurnal Penelitian Bidang Hukum Universitas Gresik* 10, no. 2 (6 Januari 2022): 10–22. <https://doi.org/10.55129/jph.v10i2.1590>.
- Mustajib. "Kedaulatan Rakyat dalam Pemilu dan Pilkada: Antara Idealisme Konstitusi dan Tantangan Praktik Politik Uang yang Marak Mustajib 1 . PE N DAHULUA N yang ditegaskan dalam Pasal 1 ayat (2) Undang-Undang Dasar Negara Republik Indonesia dan minimnya efek jer." *Pemuliaan Keadilan* 2, no. 3 (2025): 136–51.
- Mustajib, M. "Kedaulatan Rakyat dalam Pemilu dan Pilkada: Antara Idealisme Konstitusi dan Praktik Politik Uang." *Pemuliaan Keadilan* 2, no. 3 (2025): 136–51. <https://doi.org/10.62383/pk.v2i3.1041>.
- Nasution, Tanda Perdamaian. "Tanda Perdamaian Nasution," no. 85 (2022).
- "Peraturan Mahkamah Konstitusi Republik Indonesia Nomor 4 Tahun 2023 tentang Tata Beracara dalam Perkara Perselisihan Hasil Pemilihan Umum Presiden dan Wakil Presiden," 2023.
- Purnama, Muhamad Dikri, dan Utang Rosidin. "Dinamika Kewenangan Mahkamah Konstitusi Dalam Menyelesaikan Perselisihan Hasil Pemilihan Umum Kepala Daerah Serta Implikasinya Terhadap Pemilihan Umum Serentak Tahun 2024." *Adagium: Jurnal Ilmiah Hukum* 3, no. 2 (2025): 226–46.
- "Putusan Mahkamah Konstitusi Nomor 85/PUU-XX/2022 tentang Pengujian Undang-Undang Nomor 10 Tahun 2016 tentang Pemilihan Kepala Daerah," 2022.
- "Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023 tentang Sengketa Pemilihan Umum dan Ambang Batas Pencalonan Presiden," 2023.
- Rezah, F S, dan A T Sapada. "Implications of Constitutional Court Decision Number 85/PUU-XX/2022 for the Dispute Resolution of Regional Head Election Results." *SIGn Jurnal Hukum*

- 6, no. 2 (2024): 233–46. <https://doi.org/10.37276/sjh.v6i2.383>.
- Rezah, Farah Syah, dan Andi Tenri Sapada. “Implications of Constitutional Court Decision Number 85/PUU-XX/2022 for the Dispute Resolution of Regional Head Election Results.” *SIGn Jurnal Hukum* 6, no. 2 (27 Desember 2024): 233–46. <https://doi.org/10.37276/sjh.v6i2.383>.
- Ulum, M. B., Rachmad, R., & Wahyudi, A. “Evaluasi Kewenangan Mahkamah Konstitusi Memutus Perselisihan Hasil Pemilihan Umum Kepala Daerah Evaluation of the Authority of the Constitutional Court Decide Disputes of the General Election of Regional Heads” 1, no. 2 (2014): 69–79. <http://www.depdagri.go.id/news/2010/07/08/mendagri-usul->.
- Ulum, M B. “Evaluasi Kewenangan Mahkamah Konstitusi Memutus Perselisihan Hasil Pemilihan Umum Kepala Daerah.” *Lentera Hukum* 11, no. 3 (2024): 289–308. <https://doi.org/10.19184/ejlh.v11i3.16911>.
- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (1945).
- “Undang-Undang Nomor 7 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2022 tentang Perubahan atas Undang-Undang Nomor 7 Tahun 2017 tentang Pemilihan Umum menjadi Undang-Undang,” 2023.
- Zulkarnain, Muhammad Haris. “Pembentukan Lembaga Peradilan Khusus Pemilihan Umum Dalam Rangka Mewujudkan Electoral Justice System.” *Progressive Law and Society* 1, no. 1 (2023).