

THE ROLE OF THE CONSTITUTIONAL COURT IN RESOLVING ELECTION DISPUTES FROM THE PERSPECTIVE OF JUSTICE

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Abstract: The authority of the Constitutional Court is regulated in Article 24C(1) of the Constitution. This Court has the authority to adjudicate at the first and final levels, and its decisions are final, with the aim of strengthening the legal system by reinforcing its foundations in the constitution. In this role, the Constitutional Court prevents the existence of laws that are contradictory to the constitution. The Constitutional Court is a judicial institution specifically dealing with constitutional or political justice, which was established after the amendment of the 1945 Constitution of the Republic of Indonesia. Its main purpose is to avoid unilateral decisions in constitutional cases. As the guardian of the constitution, the Judges of the Constitutional Court play an important role in preventing the enactment of laws that violate the constitution. Furthermore, the Constitutional Court also has a role in resolving electoral disputes as a state judicial institution. It decides cases involving disputing parties through judicial processes. The tasks and authorities of the Judges of the Constitutional Court are crucial in assessing electoral disputes. Although this institution receives, examines, and decides criminal cases, the decisions rendered are based on the principles of freedom, honesty, and impartiality in court proceedings, in accordance with the provisions of the law. The Constitutional Court serves as an institution that seeks justice in electoral dispute resolutions. The quality contribution of judges in deciding disputes is vital in achieving justice. Judges must possess professionalism and good morals, as well as legal expertise and a belief in truth. Additionally, the ability to consider the facts of the trial, evidence, witness testimonies, and expert opinions is also an important aspect of assessment. Every decision made by the Judges is based on applicable regulations, thereby strengthening the role of the judicial institution in achieving fair justice. Therefore, high-quality judicial decisions hold the same significance as decisions that reflect justice.

Keywords: Constitutional Court, electoral disputes, perspective of justice

I. INTRODUCTION

During the session of the Investigating Body for the Preparatory Work for Indonesian Independence (BPUPKI), Moh. Yamin proposed the establishment of the Constitutional Court in Indonesia. However, this proposal faced rejection from Soepomo, who argued that the Supreme Court should not be tasked with handling constitutional disputes. Soepomo presented several reasons as follows:

1. The concept of the Constitution in Indonesia is the distribution of power or separation of powers: Soepomo believed that the legal system in Indonesia is based on the separation of powers between the legislative, executive, and judicial branches. Assigning the Supreme Court to handle constitutional disputes would blur this separation of powers and could potentially lead to undesirable concentration of power.
2. Judges can only apply the law and not test the law: According to Soepomo, the role of judges is limited to applying existing laws, not testing the validity or constitutionality of those laws. Therefore, entrusting constitutional disputes to the Supreme Court would not be in line with its role and authority.
3. Indonesia still upholds the supremacy of the People's Consultative Assembly (MPR): Soepomo reminded that at that time, Indonesia still adhered to the principle of MPR's supremacy. In this context, the MPR has the main authority to amend or decide changes to the Constitution. Therefore, assigning the Supreme Court to handle constitutional disputes might involve interference that is not in line with the principle of MPR's supremacy.
4. There are not many experts in Indonesia regarding judicial review or testing laws: Soepomo also highlighted the lack of expertise and experience in Indonesia regarding judicial review or testing laws against the Constitution. According to him, there are not enough experts who understand and can perform such tasks well. Therefore, the establishment of an independent Constitutional Court as a specialized institution to handle constitutional disputes could be a more appropriate solution.

Thus, Soepomo's rejection of the proposal to assign the Supreme Court to handle constitutional disputes was based on the principles of separation of powers, limited role of judges, the supremacy of the People's Consultative Assembly (MPR), and a lack of expertise in the field of judicial review.

After the Amendment of the Constitution, there are three reasons why the Constitutional Court is needed in Indonesia. First, to realize a democratic rule of law. Second, Indonesia has implemented the principle of separation of powers among state institutions with the aim of controlling and balancing power (the principle of checks and balances). Third, there was a case of the impeachment of Abdurrahman Wahid that occurred without clear legal mechanisms. In formulating the philosophical foundation of the establishment of the Constitutional Court in Indonesia, several factors are taken into consideration. First, there is a need for a strong and clear mechanism for law enforcement. Second, mechanisms to resolve disputes that may arise within state institutions should be provided. Third, the institutionalization of the roles of judges and politics in the formation and interpretation of legal products is important. Fourth, there is a need for a mechanism to decide disputes that cannot be resolved by other judicial bodies.

Before the Constitutional Court (MK) was established in Indonesia, the history of its establishment began with the adoption of the idea of the Constitutional Court through constitutional amendments carried out by the People's Consultative Assembly (MPR) in 2001. These amendments are regulated in the provisions of Article 24, paragraph (2), Article 24C, and Article 7B of the 1945 Constitution as the result of the Third Amendment, which was officially ratified on November 9, 2001.

The People's Consultative Assembly (DPR) and the Government worked together in drafting the Bill on the Constitutional Court. After thorough discussions, the DPR and the Government agreed to enact Law Number 24 of 2003 concerning the Constitutional Court on August 13, 2003, after obtaining the President's approval. The Constitutional Court (MK) was established with the main objective of ensuring that there would be no more laws contradicting the constitution, thus safeguarding the constitutional rights of citizens and upholding the constitution itself in a constitutional manner. This concept did not emerge during the first amendment of the 1945 Constitution, and none of the factions in the People's Consultative Assembly (MPR) proposed such an idea. It seems that the members of the MPR were greatly inspired by their comparative study results. Nevertheless, at the Annual Session of the MPR in August 2000, the draft regarding the constitutional court was still in the alternative stage and was not yet final (Jimli Asshidiqy, 2005).

General Elections (Pemilu) are also one of the persuasive (non-coercive) efforts to influence public opinion through rhetoric, public relations, mass communication, lobbying, and other activities. Pemilu is a political process for the people in a democratic state, where there is a transfer of power from the previous holders of power to new holders of power in the governance of democracy. Pemilu involves the participation of the entire society in accordance with the provisions of the law to elect members of the People's Representative Council (DPR), members of the Regional Representative Council (DPD), the President and Vice President, as well as members of the Regional People's Representative Council (DPRD). In other words, pemilu is a means for the people to participate in determining the direction of government policy in a democratic state. Article 22E, paragraph (1) of the 1945 Constitution stipulates that the implementation of pemilu is conducted directly, publicly, freely, secretly, honestly, and fairly every five years. One of the goals of pemilu is to elect representatives who will represent the interests of the people, and not vice versa. However, disputes often arise in the conduct of pemilu.

According to Law Number 7 of 2017, legal issues related to elections in Indonesia can be grouped into three categories as follows:

1. Election Violations: This category includes findings of election violations and reports of election violations generated from active supervision by election observers. These violations include: (1) violations of the code of ethics for election organizers, which are resolved by the Election Organizer Honorary Council (DKPP); (2) administrative election violations, which are gradually resolved by the Election Supervisory Agency (Bawaslu).
2. Election Process Disputes: This category covers disputes that arise between election participants and disputes between election participants and election organizers as a result of decisions issued by the General Election Commission (KPU). These disputes are resolved by Bawaslu. If the decision of Bawaslu is not accepted by the parties involved, they can file a legal remedy with the State Administrative Court, which forms a special panel within the administrative court system.

3. Disputes over Election Results: This category includes disputes between the KPU and election participants regarding the determination of the national vote count results. Such disputes are resolved by the Constitutional Court (MK).

The duties and authorities of the Constitutional Court (MK) are regulated in Article 24C, paragraph (1) of the 1945 Constitution. The MK functions as a judicial institution with the power to adjudicate at the first and final levels, where its decisions are final, in order to review laws against the Constitution, decide disputes regarding the authority of state institutions granted by the Constitution, decide on the dissolution of political parties, and resolve disputes related to the results of general elections. Additionally, Article 24C, paragraph (2) of the 1945 Constitution mandates the MK to provide decisions or opinions to the People's Consultative Assembly (DPR) regarding allegations of violations by the President and/or Vice President in accordance with the Constitution. Initially, the authority to settle disputes regarding the vote count in regional elections (pilkada) was vested in the Supreme Court (MA). However, through Law No. 12 of 2008 on the Second Amendment to Law No. 32 of 2004 on Regional Government, that authority was transferred to the MK. Nevertheless, based on Constitutional Court Decision No. 97/PUU-XI/2012, the resolution of pilkada disputes became the authority of a special judicial body. However, before the establishment of the special judicial body, the authority was granted to the MK. However, with the issuance of Constitutional Court Decision No. 85/PUU-XX/2022, it was interpreted that the 1945 Constitution no longer distinguishes between national general elections and pilkada. Therefore, both disputes in regional elections and national general elections can be resolved through the MK. In Article 466 of the Election Law, a process dispute is described as a dispute that arises between election participants and disputes between election participants and election organizers as a result of decisions issued by the General Election Commission (KPU), Provincial KPU, and District/City KPU. Law No. 7 of 2017 on General Elections divides legal issues in the implementation of elections into four categories: election violations, election process disputes, disputes over the results of general elections (PHPU), and election-related criminal acts.

In Article 466 of the Election Law, it is defined that a process dispute is a dispute that arises between election participants and election organizers as a result of decisions issued by the General Election Commission (KPU), Provincial KPU, and District/City KPU. Election result disputes are related to disputes over the determination of the vote count in the national level elections for members of the People's Representative Council (DPR), Regional Representative Council (DPD), and Regional People's Representative Council (DPRD). These disputes include disputes over the determination of vote counts that can affect the allocation of seats for election participants. Additionally, disputes over the determination of vote counts in the national level elections for the President and Vice President are also included in election dispute cases (PHPU), which are related to the determination of the election results for the President and Vice President. Elections, as explained in Article 1, paragraphs 1 and 2 of Law No. 7 of 2017, are a means of the people's sovereignty to elect members of the People's Representative Council, members of the Regional Representative Council, President and Vice President, as well as members of the Regional People's Representative Council. Elections are carried out directly, publicly, freely, secretly, fairly, and honestly within the Unitary State of the Republic of Indonesia, based on Pancasila and the 1945 Constitution of the Republic of Indonesia. The implementation of elections is the execution of the stages of elections carried out by the election organizers.

The Constitutional Court (MK) as a constitutional judicial institution has special characteristics that distinguish it from general or ordinary courts. One characteristic is the final nature of MK's decisions, which cannot be subject to any other legal remedies. Thus, the final decisions of the MK have constitutional strength in the perspective of constitutionalism. Constitutionalism is a principle that emphasizes that the exercise of state power by state institutions must be based on constitutional provisions. Violations of the constitution cannot be tolerated because they can result in authoritarian and arbitrary power. The principle of constitutionalism is also related to the principle of separation and limitation of powers (checks and balances), where state power is divided equally among state institutions. No single state institution should dominate all state power, as it can lead to abuses of state power (Johansyah, 2019). Therefore, the MK is often referred to as the "guardian of the constitution." With its authority to declare the unconstitutionality of a law, the MK holds a higher position than the legislative bodies responsible for lawmaking.

According to the 1945 Constitution of the Republic of Indonesia, the Constitutional Court of the Republic of Indonesia (MK RI) has four main authorities, which are as follows:

1. Testing laws against the 1945 Constitution: This authority is more accurately referred to as "Constitutional Review." The MK has the power to examine the compatibility of a law with the provisions of the 1945 Constitution. This task encompasses two main aspects: a. Ensuring the functioning of the democratic system

- through the interaction among the executive, legislative, and judicial branches of power. Constitutional review aims to prevent the dominance of power and abuse of power by any branch of government. b. Protecting the fundamental rights of individual citizens from the abuse of power by state institutions that may harm them, in accordance with constitutional guarantees.
2. Adjudicating disputes over authority between state institutions whose authority is granted by the 1945 Constitution: The MK has the authority to decide disputes related to authority between state institutions whose authority is determined by the 1945 Constitution.
 3. Deciding the dissolution of political parties: The MK has the authority to decide disputes related to the dissolution of political parties in accordance with the provisions stipulated in the 1945 Constitution.
 4. Resolving disputes regarding the results of general elections: The MK has the authority to settle disputes related to the results of general elections, including legislative elections and the election of the president and vice-president.

II. METODE

The type of research conducted is normative juridical research focused on the study of legislation. This method is often referred to as library research by Soekanto because it involves searching relevant literature or secondary data (Soerjono Soekanto, 2015). In this context, this research uses qualitative descriptive analysis with a statute approach and historical approach. The statute approach is used to analyze legislation systematically and comprehensively. Meanwhile, the historical approach is used to understand the historical context and development of law related to the researched issues. Through the use of normative juridical research method and qualitative descriptive analysis approach, this research aims to investigate and interpret legal norms related to victims, witness protection, and related issues in the context of applicable law. It is expected that this research will provide a deep understanding of the legal issues under study.

III. HASIL DAN PEMBAHASAN

In essence, the establishment of the Constitutional Court (MK) is a manifestation of the development of legal and modern state thinking that emerged in the 20th century. In 2003, Indonesia became the 77th country to adopt the Constitutional Court in its state system. Generally, the formation of the Constitutional Court is motivated by several factors, including the consequences of constitutionalism, the need for a mechanism of checks and balances between state institutions, and the protection of human rights as stipulated in the constitution. As one of the judicial authorities alongside the Supreme Court (MA), the Constitutional Court is granted several authorities within the state system (Zainal Arifin Hoesein, 2013). The Constitutional Court has the authority to adjudicate at the first and final levels, including testing laws against the 1945 Constitution, deciding disputes over the authority of state institutions (SKLN) granted by the 1945 Constitution, deciding the dissolution of political parties, and deciding disputes over the results of general elections. Additionally, the Constitutional Court also has the obligation to render decisions on the opinions of the People's Consultative Assembly (DPR) if there are allegations of violations by the President/Vice President in accordance with the 1945 Constitution. The Constitutional Court is one of the judicial institutions in Indonesia. As a high state institution, the Constitutional Court plays a crucial role in the state system by holding judicial power. The Constitutional Court is an independent state institution that exercises judicial power to administer justice and uphold the law. The composition of judges in the Constitutional Court, known as Constitutional Judges, consists of a maximum of 9 individuals. The appointment system for judges involves the DPR nominating 3 individuals, the President nominating 3 individuals, and the Supreme Court nominating 3 individuals, with the final appointment made by the President.

In carrying out its functions, the Constitutional Court has four authorities and one obligation that are regulated in the 1945 Constitution. These authorities include:

1. Testing laws against the 1945 Constitution of the Republic of Indonesia.
2. Adjudicating disputes over the authority of state institutions whose authority is granted by the 1945 Constitution of the Republic of Indonesia.
3. Deciding the dissolution of political parties.
4. Resolving disputes regarding the results of general elections.

With these authorities, the Constitutional Court plays a central role in safeguarding constitutionality, justice, and legal stability within the Indonesian state system.

The Constitutional Court has the obligation to render decisions on the opinions of the People's Consultative Assembly (DPR) regarding alleged violations by the President and/or Vice President (impeachment). Additionally, based on Law Number 8 of 2015, the Constitutional Court also has additional authority to decide disputes over the results of Governor, Regent, and Mayor elections until specialized courts are established. As we know, the Indonesian constitution has undergone changes in four stages, namely in 1999, 2000, 2001, and 2002 (1945 Constitution). One significant change from the 1945 Constitution is the adoption of new principles in the state system, including the separation of powers and checks and balances as a replacement for the parliamentary supremacy system. In the third amendment to the 1945 Constitution, Article 24C regulates the establishment of the Constitutional Court as a new constitutional organ with an equal position to other constitutional organs. The functions of the Constitutional Court have been regulated based on Law Number 24 of 2003 concerning the Constitutional Court. Since the amendment of Law Number 24 of 2003 to Law Number 8 of 2011 concerning the Constitutional Court, there are explanations regarding the regulation of disputes over the results of general elections. According to Law Number 8 of 2011 concerning the Constitutional Court, there have been no changes in the Constitutional Court's authority to decide disputes or controversies over election results. Based on Law Number 8 of 2011, the Constitutional Court remains the sole institution authorized to handle cases of disputes or controversies over election results, including the election of the President and Vice President, Regional Representative Council, People's Representative Council, and Regional People's Representative Council. According to Article 10 (1) of Law Number 24 of 2003, the Constitutional Court has the authority to adjudicate at the first and final levels, where the decisions rendered are final in cases of: a. testing laws against the 1945 Constitution; b. deciding disputes over the authority of state institutions granted by the 1945 Constitution; c. deciding the dissolution of political parties; and d. deciding disputes over the results of general elections.

Furthermore, the Constitutional Court has the obligation to render decisions on the opinions of the DPR regarding alleged legal violations by the President and/or Vice President, such as treason, corruption, bribery, other serious crimes, or reprehensible acts, as well as in cases where the President and/or Vice President no longer meet the qualifications according to the 1945 Constitution. These provisions are explained in paragraphs (2) and (3), which detail offenses against state security, corruption, bribery, other serious crimes, reprehensible acts, and the qualifications stipulated in Article 6 of the 1945 Constitution.

In discussing the establishment of the Constitutional Court in Indonesia, there are several factors at play, including the mechanism of law enforcement, dispute resolution mechanisms within state institutions, the need for the role of judges and politics in the formation of legal products, and the existence of dispute resolution mechanisms. One of the bases of the Constitutional Court's authority is stipulated in Article 24C paragraph (1) of the 1945 Constitution, which states that the Constitutional Court has the authority to adjudicate at the first and final levels, where the decisions rendered are final, including in deciding disputes over the results of general elections. Furthermore, the understanding of election disputes is also regulated in Law Number 10 of 2008 concerning the Election of Members of the People's Consultative Assembly, Regional Representative Council, and Regional People's Representative Council, particularly in Article 258 paragraphs 1 and 2. These provisions explain that election disputes include disputes between the General Election Commission (KPU) and election participants regarding the determination of election results nationwide, as well as disputes over the determination of election results nationwide that may affect the allocation of seats for election participants. The Constitutional Court's authority in resolving election disputes mandated by the constitution reflects its role as a guardian of democracy. In carrying out its task of resolving election disputes, the Constitutional Court employs mechanisms specified in Constitutional Court Regulation Number 15/PMK/2008 concerning Procedural Guidelines in Disputes over Election Results. The Constitutional Court's authority to review laws against the Constitution is a new phenomenon in the constitutional life of the country. Since its establishment, the number of petitions for the review of laws has been increasing. This increase, in terms of both the quality and quantity of law reviews, is a form of implementing constitutional democracy in Indonesia, emphasizing the role of the Constitutional Court in upholding the rule of law and the sovereignty of the people. The principles of the rule of law and popular sovereignty are two important aspects of constitutionalism. The role of the Constitutional Court consists of two main aspects: the right to formal review and the right to substantive review in legal doctrine or practice. The right to formal review is the authority to assess whether a legislative product, such as a law, has been formulated in accordance with the procedures prescribed by applicable legislation. On the other hand, the right to substantive review is the power to investigate and evaluate whether a legal regulation is in accordance with or contrary to regulations of higher authority, as well as whether a specific authority is entitled to issue such regulations. The right to substantive review is related to the content of a regulation in relation to regulations of higher authority.

The Constitutional Court is one of the judicial power institutions regulated in the 1945 Constitution. The authority of the Constitutional Court is regulated in Article 24C, paragraph (1) of the 1945 Constitution and Article 10, paragraph (1) of Law Number 24 of 2003 concerning the Constitutional Court. The law has undergone changes through Law Number 8 of 2011 on Amendments to Law Number 24 of 2003 concerning the Constitutional Court (Law 8/2011), and the second amendment through Government Regulation in Lieu of Law Number 1 of 2013 on the Second Amendment to Law Number 24 of 2003 concerning the Constitutional Court (Perpu 1/2013). Lastly, this regulation has been enacted by Law Number 4 of 2014 on the Enactment of Government Regulation in Lieu of Law Number 1 of 2013 on the Second Amendment to Law Number 24 of 2003 concerning the Constitutional Court. This regulation governs the authority of the Constitutional Court, which includes the authority to adjudicate at the first and final levels, where the decisions rendered are final. These authorities are as follows:

1. Testing laws against the 1945 Constitution of the Republic of Indonesia.
2. Adjudicating disputes over the authority of state institutions whose authority is granted by the 1945 Constitution of the Republic of Indonesia.
3. Deciding the dissolution of political parties.
4. Resolving disputes regarding the results of general elections.

The decision of the Constitutional Court has a final nature, which means that the decision has immediate and binding legal force from the moment it is pronounced and cannot be subject to further legal remedies. The final nature of the Constitutional Court's decision, as stipulated in this Law, also includes the characteristic of being binding (final and binding), wherein the court's decision has the power to bind and settle a matter or dispute and establish legal rights or obligations. When the parties involved submit and entrust their dispute to the court or judge for examination and adjudication, it signifies that they will be subject to and comply with the rendered decision. The Chairman of the Constitutional Court, when deciding on election dispute settlement, must consider the principle of justice based on Law Number 24 of 2004, wherein the judge must take into account all aspects of the decision that will ultimately become the final decision in the election dispute.

The decision refers to Article 45 of the Constitutional Court Decision:

- (1) The Constitutional Court decides cases based on the 1945 Constitution of the Republic of Indonesia in accordance with the evidence and the judges' conviction.
- (2) A Constitutional Court decision that grants the petition must be based on at least two pieces of evidence.
- (3) The Constitutional Court decision must include the facts revealed in the trial and the legal considerations that form the basis of the decision.
- (4) The decision mentioned in paragraph (3) is made through deliberation for consensus in a plenary session of constitutional judges led by the session's chairperson.
- (5) In the plenary session, each constitutional judge is required to present their written considerations or opinions on the petition.
- (6) In the event that deliberation in the plenary session of constitutional judges mentioned in paragraph (4) fails to reach a decision, the deliberation is postponed until the next plenary session of constitutional judges.
- (7) In the event that deliberation in the plenary session after genuine efforts fail to achieve unanimous agreement, the decision is made by majority vote.
- (8) In the event that deliberation in the plenary session of constitutional judges mentioned in paragraph (7) fails to reach a decision by majority vote, the final vote of the chairperson of the plenary session of constitutional judges determines the decision.
- (9) The Constitutional Court decision may be rendered on the same day or postponed to another day, which must be notified to the parties involved.
- (10) In the event that unanimous agreement, as mentioned in paragraphs (7) and (8), cannot be reached, the dissenting opinions of the judges are included in the decision.

And Article 48 (1) The Constitutional Court renders decisions based on justice in accordance with the belief in the One Supreme God. (2) Every decision of the Constitutional Court must include: a. the heading of the decision stating: "In the Interest of Justice Based on the Belief in the One Supreme God"; b. the identities of the parties involved; c. a summary of the application; d. considerations of the facts revealed during the trial; e. legal considerations as the basis for the decision; f. the operative part of the decision; and g. the date of the decision, names of the constitutional judges, and the registrar, in accordance with Article 10, Paragraph (1) of the Constitutional Court Law. Article 47 of the Constitutional Court Law strengthens the final nature of the decision by stating that the decision of the Constitutional Court has binding legal force from the moment it is pronounced in a public plenary session.

Based on these provisions, the final nature signifies at least three aspects: (1) the Constitutional Court's decision has direct legal force; (2) because it has legal force, the decision of the Constitutional Court carries legal consequences for all parties involved. This differs from decisions in general courts that only bind the parties involved in the case (inter partes). All parties are obliged to comply with and implement the Constitutional Court's decision; (3) the final nature of the Constitutional Court's decision establishes it as an extraordinary constitutional institution. In other words, through its final decisions, the Constitutional Court possesses significant authority, even exceeding that of other state institutions. Consequently, the Constitutional Court cannot be controlled by any other institution.

Several stages in the procedure for submitting a petition to the Constitutional Court regarding election disputes can be done either directly or online, including the following:

1. Direct submission of the petition to the Constitutional Court.
2. Indirect/online submission of the petition to the Constitutional Court.

Stages of Case Proceedings

1. Submission of Petition

This is the initial stage of a case at the Constitutional Court (CC). The petitioner can submit the petition to the Constitutional Court online through the registration using the Electronic Case Handling Information System (SIMPEL), accessible through the homepage of the Constitutional Court website (www.mahkamahkonstitusi.go.id or www.mkri.go.id), or offline by directly submitting the petition to the Constitutional Court Registry.

2. Completeness Examination

This is the subsequent stage to examine the completeness of the requirements stated in the petitioner's petition according to the provisions of Article 32(1) of Law Number 24 of 2003 on the Constitutional Court, as amended by Law Number 8 of 2011 on Amendments to Law Number 24 of 2003 on the Constitutional Court. After the completeness examination of the petition, it may be declared complete or incomplete, and the result will be communicated to the petitioner.

3. Rectification of Petition

This stage is carried out by the petitioner when the submitted petition does not meet the completeness requirements based on the results of the completeness examination, as regulated in Article 32(1) of Law Number 24 of 2003 on the Constitutional Court. After the examination, the Constitutional Court will notify the petitioner of the deficiencies in the petition and provide a specified period for the petitioner to promptly complete and/or rectify the petition.

4. Registration

Petitions that have fulfilled the requirements will be registered in the Constitutional Case Registration Book (BRPK) through the e-BRPK system. The petitioner will be issued a Constitutional Case Registration Certificate (ARPK) as proof that the petition has been recorded in the BRPK.

5. Delivery of Petition Copies and First Hearing Notice

After the petition is registered, it will be published on the Constitutional Court website (www.mahkamahkonstitusi.go.id or www.mkri.go.id), and copies will be delivered to the relevant parties. Subsequently, the Constitutional Court will determine and announce the date of the first hearing to the parties, with the agenda of Preliminary Examination.

6. Preliminary Examination

The Preliminary Examination is the first hearing at the Constitutional Court (CC) aimed at clarifying the petition and providing advice to the petitioner regarding the submitted petition. This hearing is conducted by a Panel of Judges consisting of at least three Judges. After the Preliminary Examination hearing, the petitioner is given an opportunity to rectify the petition within a specified period.

7. Court Examination

The Case Examination is a stage of the trial at the Constitutional Court (CC) conducted by the Panel of Judges or the Full Court of Judges to examine the substance of the case. The agenda of the case examination includes: a. Examination of the essence of the Petition; b. Examination of written evidence; c. Hearing the statements of the parties; d. Hearing witness testimonies; e. Hearing expert testimonies; f. Hearing testimonies from relevant parties; g. Examination of a series of data, statements, actions, and/or events in accordance with other evidence that can be used as guidance, as well as examining electronic evidence.

* The case examination can be conducted through remote proceedings via video conference.

8. Pronouncement of Judgment Hearing

The Pronouncement of Judgment Hearing is the final stage in the trial process at the CC. This hearing is conducted in an open plenary session attended by at least 7 (seven) Judges and the parties. The CC's

judgment has legal force and is binding from the moment it is pronounced in the open plenary session. After the pronouncement, the judgment is uploaded on the CC's website (www.mkri.id) and can be accessed by the public.

9. Delivery of Copy of Judgment

After the judgment is announced in the open plenary session, the CC has the obligation to deliver a copy of the judgment to the parties within the specified time limit from the pronouncement of the judgment. The copy of the judgment delivered to the parties can be in the form of a printed copy (hardcopy) or a digital copy (softcopy) in PDF format.

Here are the steps for submitting a petition in resolving disputes in election disputes based on Law No. 24 of 2003, specifically the Eleventh Part on Disputes over General Election Results:

Article 74:

- (1) The petitioner can be: a. Individual Indonesian citizens who are candidates for Regional Representative Council members participating in the general election. b. Presidential and Vice-Presidential candidate pairs participating in the Presidential and Vice-Presidential general election. c. Political parties participating in the general election.
- (2) The petition can only be filed against the determination of the general election results made nationally by the General Election Commission that affects: a. The election of candidates for Regional Representative Council members. b. The determination of candidate pairs entering the second round of the Presidential and Vice-Presidential election and the election of the Presidential and Vice-Presidential candidate pairs. c. The allocation of seats for political parties participating in the general election in a specific electoral district.
- (3) The petition can only be filed within a maximum period of 3 x 24 (three times twenty-four) hours from the time the General Election Commission announces the determination of the general election results nationally.

Article 75:

In the submitted petition, the petitioner is obliged to clearly state: a. The discrepancies in the vote count announced by the General Election Commission and the correct vote count according to the petitioner. b. The request to invalidate the announced vote count by the General Election Commission and determine the correct vote count according to the petitioner.

Article 76:

The Constitutional Court shall forward the petition, which has been recorded in the Constitutional Case Registration Book, to the General Election Commission within a maximum period of 3 (three) working days from the date of recording in the Constitutional Case Registration Book.

Article 77:

- (1) In the event that the Constitutional Court considers that the petitioner and/or the petition does not meet the requirements as referred to in Article 74, the operative clause of the decision declares the petition inadmissible.
- (2) In the event that the Constitutional Court considers that the petition is well-founded, the operative clause of the decision declares the petition granted.
- (3) In the event that the petition is granted as referred to in paragraph (2), the Constitutional Court declares the annulment of the announced vote count by the General Election Commission and establishes the correct vote count.
- (4) In the event that the petition is unfounded, the operative clause of the decision declares the petition rejected.

Article 78:

The Constitutional Court's decision on petitions regarding disputes over the results of general elections must be made within the following timeframes: a. No later than 14 (fourteen) working days from the date the petition is recorded in the Constitutional Case Registration Book, in the case of presidential and vice-presidential elections. b. No later than 30 (thirty) working days from the date the petition is recorded in the Constitutional Case Registration Book, in the case of elections for members of the People's Consultative Assembly, Regional Representative Council, and Regional People's Representative Council.

Article 79:

The Constitutional Court's decision regarding disputes over the results of general elections shall be conveyed to the President.

One of the authorities of the Constitutional Court in deciding disputes regarding the results of General Elections (Elections) is the most commonly occurring case. This authority has been clearly regulated in Article 24C paragraph (1) number 4 of the 1945 Constitution of the Republic of Indonesia and Article 10 paragraph (1)

number 4 of Law Number 24 of 2003, which has been amended by Law Number 8 of 2011 concerning the Constitutional Court. According to the law, one of the authorities of the Constitutional Court is to decide disputes regarding the results of General Elections. Furthermore, this additional authority of the Constitutional Court is strengthened by Article 29 paragraph (1) letter e of Law Number 48 of 2009 concerning Judicial Power, which states that the Constitutional Court has the authority to adjudicate at the first and final level, and its decision is final.

The main function and role of the Constitutional Court (MK) is to safeguard the constitution and uphold the principle of constitutional legality. This also serves as the foundation for countries that accommodate the formation within their constitutional systems. In the context of Indonesia, the application of the function of testing laws in the constitutional framework is inevitable because the 1945 Constitution affirms that the adopted system is no longer parliamentary supremacy but constitutional supremacy. In accordance with Article 7, Paragraphs (1) to (5), and Article 24C, Paragraph (2) of the 1945 Constitution, which is also emphasized in Article 10, Paragraph (2) of Law No. 24 of 2003, the Constitutional Court has the obligation to issue decisions on the DPR's opinion regarding legal violations or reprehensible acts committed by the President and/or Vice President, or their disqualification as President and/or Vice President according to the 1945 Constitution. The role of the Constitutional Court also includes the resolution of general election disputes as a state judicial institution that decides cases between disputing parties through a judicial process. The duties and authorities of the Constitutional Court judges are crucial in assessing election disputes and upholding the principle of justice as part of their moral responsibility. The Constitutional Court not only functions as a body that receives, examines, and adjudicates criminal cases but is also based on the principles of freedom, honesty, and impartiality in court proceedings according to the laws that govern it. According to Sudikno Mertokusumo, a judge's decision is a statement made by a judge as a state official authorized to do so, in a trial, and aims to conclude or resolve a case or dispute between the parties. In this context, the improvement of the quality of judges' decisions and the professionalism of the judiciary are achieved when judges are able to render decisions considering three important aspects: justice (*gerechtigheit*), legal certainty (*rechtsicherheit*), and usefulness (*zweckmäßigkeit*) (M. Agus Santoso, 2014). The task of judges is not only to resolve disputes between parties but also to bridge the gap between society and the law. In the rapid development of society, the law often fails to keep up with these dynamics. Therefore, judges play a role in creating new laws, making legal breakthroughs, and filling legal gaps through various decisions.

The view that the decisions of the Constitutional Court meet the aspect of justice or fairness in their final judgments, according to a journal cited by Fajar Laksono Soeroso (2014):

1. The finality of Constitutional Court decisions is not only because the Court is the sole authority, but more importantly, the final nature of these decisions is based on the position of the Constitution as the supreme law that cannot be overridden by other laws. This means that when a matter is brought before the Constitutional Court and the Constitution serves as the basis for examination, the decision on that matter becomes absolutely final. This is due to the fact that the parties involved have gone through efforts to seek justice and guarantees for their rights based on the law that has the highest supremacy as the foundation of the examination.
2. The finality of Constitutional Court decisions is also an effort to maintain and protect the integrity of constitutional justice. If constitutional justice accommodates legal remedies, it will lose its distinction from general justice. In general justice, cases that file legal remedies against its decisions will take a long time until the case is truly concluded. Consequently, the parties will experience dependence, both in terms of time, energy, and costs, which contradicts the principle of justice that is carried out quickly, simply, and at a low cost.
3. Although it is not possible to eliminate the risk of errors or mistakes in Constitutional Court decisions, such risks can be minimized. This cannot be avoided because constitutional judges are ordinary humans who naturally have weaknesses, and mistakes can occur. However, in regard to this matter, as stated by Moh. Mahfud MD, Constitutional Court decisions must remain final because: (1) the choice of verdict depends on the perspective and theories used by the judges; (2) the judges' decision resolves differences of opinion; and (3) there is no better alternative to eliminate the final nature. Therefore, the idea of allowing other legal remedies against Constitutional Court decisions cannot be justified as it lacks constitutional basis. In accordance with the Constitution, even the Constitutional Court itself is not granted the authority to re-examine decisions that have been rendered. Therefore, the desire to pursue other legal remedies against Constitutional Court decisions means that its constitutional provisions must be changed first.

The Constitutional Court serves as the highest interpreter of the Constitution. Based on Article 24C, Paragraph (1) of the 1945 Constitution, the Constitutional Court has the authority to adjudicate at the first and final levels,

where its decisions are final, in testing laws against the Constitution, deciding disputes over the authority of state institutions granted by the Constitution, deciding the dissolution of political parties, and deciding disputes over the results of general elections. In resolving election disputes, the Constitutional Court applies a mechanism of speedy trial, in accordance with the provisions stated in Constitutional Court Regulation No. 15 of 2008. The adjudication of election dispute cases is conducted swiftly and simply, as the first and final level of adjudication with binding and final decisions. This speedy trial mechanism requires the Constitutional Court to resolve disputes within 14 working days through a trial process. In this brief trial process, constitutional judges are required to evaluate all the evidence and witnesses presented. Constitutional judges assess all the evidence submitted to the court in accordance with the provisions of Article 37 of Law No. 24 of 2003 on the Constitutional Court, as amended by Law No. 8 of 2011 on Amendments to Law No. 24 of 2003 on the Constitutional Court (Constitutional Court Law). The examination of evidence is crucial as it forms the basis for the Constitutional Court's decisions. On the other hand, there is the factor of constitutional conviction based on evidence as a determinant in the decision-making process, in accordance with Article 45, Paragraph (1) of the Constitutional Court Law in the dispute resolution mechanism (Fajar Kuala Nugraha, 2016). As upholders of justice and law, constitutional judges must possess professionalism, high moral integrity, and independence in examining and deciding cases. This is important to prevent errors and mistakes in upholding justice and the law.

Constitutional judges must adhere to the following principles:

1. The principle of independence as a guarantee for the rule of law and justice. This principle is inherent in constitutional judges and should be reflected in every stage of the examination process and decision-making in each case. It is closely related to the independence of the Court as a reputable, dignified, and trustworthy judicial institution.
2. The principle of impartiality is inherent in the nature of the constitutional judge's function as the party expected to provide a resolution to every case brought before the Court. The principle of impartiality encompasses a neutral stance, supported by a deep understanding of the importance of maintaining a balance among the interests related to the case. This principle should be reflected in every stage of the case examination and decision-making process.
3. The principle of integrity is an inner disposition that reflects the integrity and balance of the personality of each constitutional judge, both as an individual and as a state official, in performing their duties. Integrity is crucial in preventing errors and mistakes in upholding justice and the law.
4. The principle of dignity and decorum is a personal and interpersonal moral norm that is reflected in the behavior of each constitutional judge, both in their personal capacity and as a state official, in carrying out their professional duties. This attitude generates respect, authority, and trust towards constitutional judges.
5. The principle of equality ensures equal treatment for all parties involved in the constitutional justice process. This principle is important in maintaining justice and avoiding discrimination in decision-making.
6. The principle of competence and equality of constitutional judges indicates that they must possess adequate competence and equality in carrying out their duties as judges.

By adhering to these principles, constitutional judges are expected to carry out their duties with professionalism, fairness, and high integrity.

Wisdom and prudence demand that constitutional judges follow the applicable legal norms and other norms in society. The role of Constitutional Court judges in maintaining the continuity of the national legal system is reflected in the Preamble of the 1945 Constitution of the Republic of Indonesia. In line with the vision of the Constitutional Court, judges have a responsibility to uphold the constitution in order to realize a dignified rule of law and democracy and to build an Indonesian society with a constitutional culture. Judges must serve justice, as reflected in responsible decisions based on strong concepts, legal foundations, reasoning, and legal and non-legal considerations, all of which are robust. Judges must also have the courage to act as law-finders, in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia, as further elaborated in Law Number 48 of 2009 on Judicial Power. This requires judges to have the ability to explore the values of justice in society, which are then manifested in their decisions as jurisprudence (Edi Rosadi, 2016). Sudikno Mertokusumo divides jurisprudence into two fixed categories: 1) Judicial decisions containing legal principles that are considered "landmark decisions" because they are seen as real breakthroughs in resolving prolonged legal conflicts. 2) Legal principles or provisions in a decision that are consistently followed by other judges in their decisions and are considered a common legal conviction (H.P. Panggabean, 2014). The conviction of Constitutional Court judges is based on the evidence that is the determining factor in decision-making. In the Constitutional Court's decisions regarding the results of general elections (Pemilu), there has been a shift in the assessment of documentary evidence and witness testimonies. Initially, decisions regarding election disputes

were based on documentary evidence, especially those issued by election organizers and supervisors, as the basis for assessing the evidentiary strength of a petition. The Constitutional Court only relied on the formality of documentary evidence, but now it pays more attention to the substance and quality of evidence as well as witness testimonies in the decision-making process.

Constitutional Court Regulation Number 2 of 2023 regulates the procedural rules in cases of disputes over the results of the presidential and vice-presidential elections, as stipulated in Article 30 Paragraph 3 (3). In the case of documentary evidence, as mentioned in Paragraph (2), the Election Supervisory Agency (Bawaslu) or legal representatives must submit the evidence in 2 (two) copies, subject to the following provisions: a. 1 (one) copy must be affixed with a stamp in accordance with the applicable laws and regulations; b. The other copy is a duplicate of the evidence mentioned in letter a. Additionally, each piece of evidence must be marked and labeled according to the list of evidence determined and regulated in Article 39 Paragraph (1). Documentary evidence, as referred to in Article 38 letter a, and evidence in the form of statements by the parties, as referred to in Article 38 letter b, must be submitted in the court proceedings in accordance with the provisions of Article 40. Furthermore, evidence in the form of witness testimonies, as referred to in Article 38 letter c, and evidence in the form of expert opinions, as referred to in Article 38 letter d, are regulated in Article 41 Paragraph (1) and Article 42 Paragraph (1) respectively.

Regarding disputes over the results of regional elections (Pemilukada), Article 36 Paragraph (1) of the Constitutional Court Law, in conjunction with Article 9 of Constitutional Court Regulation Number 15 of 2008 concerning Guidelines for Proceedings in Disputes over the Results of Regional Elections (PMK 15/2008), states that evidence can be in the form of statements by the parties, documents or writings, witness testimonies, expert opinions, instructions, and other evidence in the form of information and/or electronic communication. In its development, witness testimonies and other documentary evidence are linked to the electoral process as a whole in order to reach conclusions and provide assessments of specific legal facts. The evaluation of all legal facts obtained during the trial through witness testimonies and documentary evidence submitted by the parties gives the judges the conviction that there has been a proven violation significantly affecting the vote count of each candidate pair. However, some circles consider that the factor of conviction by Constitutional Court judges has resulted in controversial decisions. This is due to the judges' conviction, which is seen as creating new legal norms by interpreting and providing legal perspectives through the decisions issued in Pemilukada cases with a broader interpretation in order to uphold justice. As a responsible judge, it is important for Constitutional Court judges to make decisions that are accountable and can be justified.

Responsible decisions are those based on strong conceptual foundations, strong legal grounds, strong reasons and considerations, both legal and non-legal, thus reflecting the principle of justice. In their decision, judges must consider evidence, witness testimony, and expert opinions as part of their assessment of various aspects of an election dispute. Judges must assess the validity of evidence, the credibility of witness testimony, and the facts presented in the trial without favoring any party, while recognizing the equal rights and obligations of both parties. The decision should also include relevant rights and obligations for the applicant and respondent. According to Aristotle's perspective, justice is a moral virtue related to human behavior in building good relationships between individuals and achieving a balance between two parties. This balance is seen in terms of numerical and proportional equality. Numerical equality means treating each individual equally within a unit, such as the perspective of equality before the law. Meanwhile, proportional equality means giving each person rights corresponding to their abilities and achievements. Satjipto Rahardjo's view states that justice reflects how someone perceives the essence of humanity and how humans are treated. Justice is a central issue in law and one of the goals of the law. Justice involves recognition and balanced treatment of rights and obligations and is an impartial or unbiased action, where individuals are granted what is rightfully theirs.

Acting fairly means having knowledge of rights and obligations, understanding the difference between right and wrong, acting honestly, and complying with established rules and laws, as well as avoiding arbitrary actions. Greater emphasis on the principle of justice means considering the living law in society, including customs and unwritten legal provisions. In their legal reasoning and considerations, judges must be able to consider all provisions that exist in society, including customs and unwritten legal provisions. Finding the appropriate criteria to determine whether a judicial decision reflects justice is not easy for disputing parties because what is fair for one party may not be fair for another. The duty of a judge is to uphold justice according to the guidance written at the beginning of a decision, which states "In the Name of Justice Based on the One and Only God." The justice referred to in a judicial decision is one that does not favor any party, recognizing the equal rights and obligations of both parties. In rendering a decision, judges must adhere to existing regulations so that the decision aligns with the justice desired by society. The winning party can demand or obtain their rights, while the losing party must fulfill their obligations.

In order to uphold justice, judicial decisions in court must align with their true purpose, which is to provide equal opportunities for the parties involved in the court proceedings. The value of justice can also be realized when the process of resolving a case is done quickly, simply, and with minimal costs because delayed resolution is a form of injustice. Judges have the goal of upholding truth and justice and are obligated to uphold the law. Personal honor and integrity are also important for a judge. In the process of justice, judges bear a great responsibility towards society in producing decisions that reflect legal certainty, justice, and usefulness, making the judiciary a place to fulfill society's expectations in seeking justice. Quality decisions will reflect the skill and ability of the judge in deciding cases. Judges have the authority to decide cases as holders of judicial power whose independence is guaranteed by the 1945 Constitution as guardians of the constitutional framework. These guardians play a role in preventing inconsistencies between norms in the law and the constitution. Therefore, there is a need for an institution that maintains the balance of the constitution as a form of checks and balances.

There are many theories that attempt to explain how to achieve quality judicial decisions. However, for those seeking justice within the legal process, a quality judicial decision is simply one that can achieve justice or reflect a sense of justice that can be implemented and accepted by seekers of justice. Judicial decisions must be based on the law and provide equal opportunities for the parties involved. In upholding the law, it is important to understand that upholding the law does not always mean upholding justice. The skills of judges in interpreting and applying the law are not sufficient to achieve quality decisions because, in everyday life, the law is not always synonymous with justice. As previously stated, for seekers of justice, a quality judicial decision is synonymous with a decision that reflects justice. The concept of fair justice is a means of upholding justice, based on the principle of equality before the law. This is in line with the goal of the law to achieve equality and justice. These concepts are interconnected and complement each other's objectives.

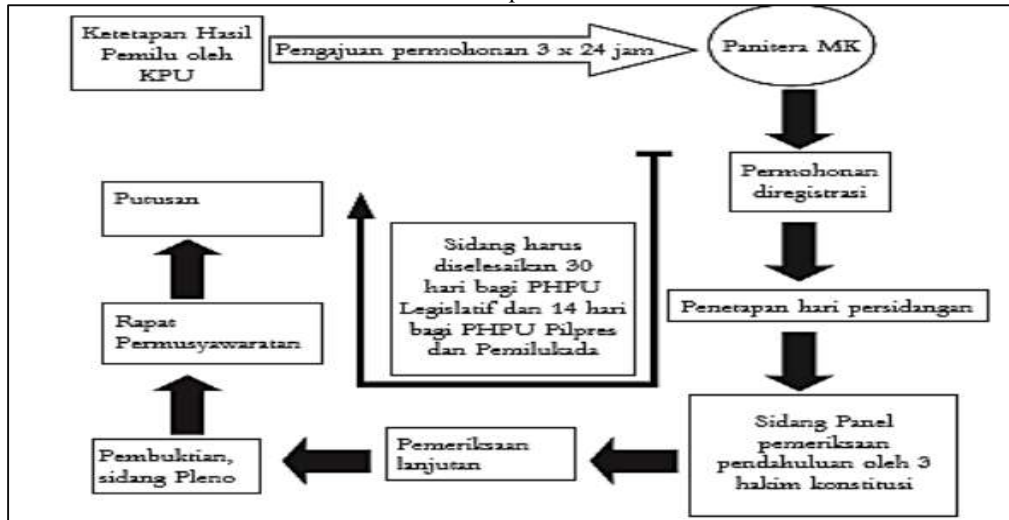
To achieve fair judicial decisions, judges need to use the characteristics of legal reasoning and *ratio decidendi*. In making decisions, judges must consider both formal procedural aspects and universal aspects that encompass justice and humanity. Judicial decisions in court must align with their true purpose. Firstly, judicial decisions must provide authoritative solutions, meaning they offer a way out of the legal problems faced by the parties involved. Secondly, judicial decisions must be efficient, fast, simple, and cost-effective because delayed justice is a form of injustice. Thirdly, judicial decisions must be in line with the objectives of the underlying laws governing the court's decision. Fourthly, judicial decisions must encompass stability, meaning they maintain social order and harmony within society. Fifthly, judicial decisions must be fair, providing equal opportunities for the parties involved. The concept of justice essentially means placing things in their rightful place and granting everyone equal rights before the law (equality before the law). In their legal reasoning and considerations, judges must be able to accommodate all applicable provisions within society, including customs and unwritten legal provisions, when choosing justice as the basis for deciding the case at hand.

According to Margono (2012), a good judge's decision has several elements as follows:

1. Judge's decision reflects the social life process and serves as part of social control.
2. Judge's decision embodies the applicable law and provides benefits for individuals, groups, and the state.
3. Judge's decision reflects the balance between legal provisions and the realities on the ground.
4. Judge's decision represents the ideal consciousness between law and social change.
5. Judge's decision should benefit all parties involved in the case.
6. Judge's decision should not create new conflicts for the litigants or the society.

The judge's decision is the result of the trial process in the court. The court serves as the final resort for those seeking justice, so the judge's decision should meet the expectations of the seekers of justice. In deciding a case, judges should reflect three main elements: justice, legal certainty, and usefulness. Besides acting as a guardian of the constitution, the Constitutional Court also serves as a guardian of democracy. The Constitutional Court's authority in resolving election disputes, in accordance with its constitutional mandate, reflects its role as a guardian of democracy. In carrying out its task to resolve election disputes, the Constitutional Court follows the procedures stipulated in Constitutional Court Regulation No. 15/PMK/2008 concerning Guidelines for Proceedings in Disputes over Election Results.

Submission to Decision Flowchart of Election Disputes Based on the Constitutional Court Sources:



In Regulation of the Constitutional Court No. 4 of 2023, there are several provisions that regulate the decision-making process of the Constitutional Court. Article 52 states that decisions are made in the Plenary Session of Judges after the trial proceedings are deemed sufficient. The judges will engage in deliberations to reach a consensus after hearing the legal opinions presented by the judges. If a consensus cannot be reached in the deliberations, the decision will be made based on the majority vote. If a majority vote cannot be achieved, the decision will be determined by the vote of the Chief of the Plenary Session of Judges. In the Court's Decision, there is a possibility that dissenting opinions of the judges will be included. In the trial process, the assessment of justice in each decision of the Constitutional Court becomes an important aspect. This involves the competence, conviction, and legal judgment based on the professionalism of the judges. The decisions of the Constitutional Court are binding and final, prioritizing the aspect of justice for the Court's own decisions. Therefore, judges are expected to have the ability and skills to ensure the efficiency and effectiveness of the decisions, both in the application of the law and in considering the evolving values of justice in society. Additionally, judges are also expected to anticipate the social reactions and impacts of the decisions rendered (Abdul Manan, 2012).

Professionalism is one of the important aspects in carrying out a profession, in addition to the ethical dimension of the profession. Every profession has two interconnected aspects: professionalism as technical expertise and professional ethics as a moral foundation. Professionalism plays a crucial role, especially for judges who are responsible for the legal obligations and responsibilities associated with their positions. The Basic Law on Judicial Power No. 14 of 1974, as amended by Law No. 4 of 2004, requires judges to: "not refuse to examine and adjudicate a case submitted on the grounds that the law is unclear or insufficient, but must examine and adjudicate it" (Article 14, paragraph 1). In the pursuit of judicial professionalism, it is important for judges to have a deep understanding and broad knowledge, reflected in the weight of their knowledge and ability to make decisions based on the knowledge, understanding, and appreciation of the applicable law, as well as the courage to render judgments based on law and justice. This is stipulated in Law No. 48 of 2009 on Judicial Power, Article 5, paragraph 1, which states that judges and constitutional judges are obliged to explore, follow, and understand the legal values and sense of justice that exist in society. Independent judicial power includes freedom from interference by other state powers and freedom from coercion, directives, or recommendations originating from outside the judiciary, except in matters permitted by law. This is emphasized in Law No. 48 of 2009 on Judicial Power.

IV. CONCLUSION

The main function and role of the Constitutional Court (MK) are to safeguard the constitution and ensure the enforcement of the constitutional principles of the law. This principle also serves as the foundation for countries that incorporate the establishment of a Constitutional Court into their constitutional systems. In the context of Indonesia, the testing of laws becomes an inevitable function in order to uphold the constitution. This is due to the affirmation in the 1945 Constitution that the adopted system is no longer parliamentary supremacy but constitutional supremacy, as stipulated in Law No. 8 of 2011 concerning Amendments to Law No. 24 of 2003 concerning the Constitutional Court. Additionally, there are other provisions regulated in Article 18 of Law No. 48 of 2009 concerning Judicial Power, which is also stated in Article 10 of Law No. 4 of 2004 concerning Judicial Power.

The authority of the Constitutional Court of the Republic of Indonesia is regulated in Article 24C Paragraph (1) of the 1945 Constitution as follows:

1. Conducting a judicial review of laws against the Constitution.
2. Adjudicating disputes regarding the authority of state institutions whose authority is granted by the Constitution.
3. Deciding on the dissolution of political parties.
4. Adjudicating disputes regarding the results of general elections.

There are four constitutional authorities held by the Constitutional Court (MK). The Constitutional Court serves as both a court of first instance and a court of last resort, where its decisions are final and binding. This means that no further legal remedies can be pursued against the Constitutional Court's rulings, unlike in other courts, and its decisions have a broad impact on the entire Indonesian society. Furthermore, the MK also has the authority to adjudicate disputes related to Regional Head Elections (Pilkada). This authority was granted since the enactment of Law No. 22 of 2007 concerning General Elections, where elections in Article 22E of the 1945 Constitution were expanded to include the election of regional heads. Pilkada is considered part of the electoral regime. In 2022, the MK also issued a decision abolishing the idea of establishing a special judicial body, on the grounds that the elections were approaching but the formation of the special judicial body had not been carried out as mandated by the law. As a result, if there are Disputes over Election Results in 2024 and subsequent years, the authority to resolve them becomes the responsibility of the MK.

The role of the Constitutional Court (MK) in safeguarding election dispute resolutions is a manifestation of its authority and power as a judicial institution to decide a case. The decisions of the Constitutional Court are based on deliberations, where the petitioner has presented evidence related to the existing dispute. A decision is considered fair when the judges can accurately and responsibly determine a case by assessing the aspects of legal justice that should be reflected in the decision. The decision not only protects individual interests but also considers that government actions aim to achieve the public welfare. Therefore, in deciding a dispute, judges must carefully consider the weight of interests between individual interests and societal or public interests, prioritizing the greater one.

The decision-making by the Constitutional Court is based on Article 52 of the Constitutional Court Regulation No. 4 of 2023 regarding procedural rules in presidential and vice-presidential election disputes, as well as Constitutional Court Regulation No. 3 of 2018 which stipulates that the assessment of evidence, witness testimonies, and expert statements are considerations for a Constitutional Court judge in deciding election dispute cases. The decision is also based on the results of a deliberation meeting and determined by a majority vote. The pronouncement of the Court's decision is conducted in a public open plenary session and is final. Several factors underlie the decision in election disputes, whether they meet the elements of justice or not, depending on each author's perspective. The finality of the decision as the conclusion of the dispute resolution can give rise to different assumptions among the disputing parties. The final decision is binding and cannot be subject to further legal remedies by the involved parties. Therefore, the decision carries general binding force, and all parties must comply with and implement the decision. In this context, the role of judges as judicial figures is crucial, as their rulings reflect the aspect of justice or lack thereof in their decisions.

According to the author, there are several considerations that can be realized in making fair decisions in the Constitutional Court's handling of election disputes. These considerations include the competence and ability of judges to master legal knowledge, through the consideration of evidence, witness testimonies, and expert statements. This assessment becomes an important factor in resolving election disputes. Judges are expected to have the ability and skills to carry out efficiency and effectiveness in their judgments, both in the application of the law and in considering decisions based on the growing and evolving values of justice in society. In addition, judges are also expected to have the ability to predict the social reactions and impacts of their judgments. In their rulings, judges need to provide decisions that uphold the constitutional rights of the rightful parties involved in the election dispute. This approach is based on Aristotle's theory of justice as a special moral virtue. According to this theory, justice is related to human conduct in a particular field, namely determining good relationships between individuals and creating a balance between two parties. This balance is measured in terms of numerical and proportional equality. Aristotle understands justice in terms of equality, where every human being is treated as one unit, such as equality before the law. Furthermore, proportional equality means giving each person what is rightfully theirs, according to their abilities and achievements.

Therefore, to achieve the aspect of justice in election dispute resolutions, it requires judges who have good morality and can consider the impact of their decisions. A good judge's decision is one that can deliver justice, as reflected in the fundamental principle of a decision, which is "In the Interest of Justice Based on the Almighty God".

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