

From Vote Tabulation to Electoral Justice: Rethinking the Constitutional Court's Authority in Electoral Dispute Cases

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Abstract

The meaning of the Constitutional Court's authority in deciding disputes over election results has evolved significantly since its establishment, particularly in response to increasingly complex electoral violations. These disputes now involve not only quantitative issues, such as vote differences, but also qualitative concerns related to the integrity of the electoral process. Consequently, the Court's authority is no longer interpreted narrowly as a matter of numerical calculation, but as encompassing broader considerations that affect the legitimacy of election outcomes. Departing from this issue, this research aims to examine changes in meaning and to reconstruct existing legal policies to address growing demands for electoral justice amid ongoing debates over the Court's constitutional authority. This study employs normative legal research using statutory and conceptual approaches, and analyzes them through grammatical and systematic interpretation. The findings demonstrate a gradual evolution from an initially dominant quantitative approach toward a mixed approach that

integrates disputes over results with process-related violations. This research also evaluates structured, systematic, and massive violations that may influence election outcomes. Despite this progressive interpretation, juridical problems remain in strengthening the Court's authority. To address them, several reconstructive measures are proposed: redefining the concept of "disputes over election results"; establishing clear standards for structured, systematic, and massive violations; consolidating regulations governing elections and local elections; integrating the electoral law enforcement system; and advancing a transformation toward substantive electoral justice.

Keywords

Electoral Justice, Constitutional Court, Disputes over Election Results.

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Introduction

The Constitutional Court of the Republic of Indonesia was established to guard the constitution, protect the citizens' constitutional rights, and ensure that government actions do not contravene the constitution.¹ These constitutional developments indicate the commitment of legal politics to upholding constitutional democracy,² in which elections are situated not only as a procedural mechanism for filling political positions but also as a means of realizing popular sovereignty in the administration of democratic state governance.³ Also, in the context of modern democracy, elections continue to serve as an important indicator of a country's democratic quality, assessing whether it runs democratically in accordance with the principles stipulated in the state constitution⁴.

The 1945 Constitution of the Republic of Indonesia sets the normative purpose of holding elections to elect the president/vice president and members of parliament as political officials. In global trends, Miriam Budiardjo said that most countries, post-World War II, embraced democracy and continued to strengthen state life to become democratic.⁵ This development indicates a strong relationship between elections and democracy, where elections actualize the democratic process. More specifically, elections represent the practice of

¹ Saldi Isra and Pan Mohamad Faiz, "The Indonesian Constitutional Court: An Overview," in *Courts and Diversity: Twenty Years of the Constitutional Court of Indonesia*, Bertus de Villiers (Ed) (Leiden; Boston: Brill; Nijhoff, 2024), 55–56.

² Luthfi Widagdo Eddyono, "The Constitutional Court and Consolidation of Democracy in Indonesia," *Jurnal Konstitusi* 15, no. 1 (March 2018): 9–10, <https://doi.org/10.31078/jk1511>.

³ Zainal Arifin Mochtar, "Guarding Democracy: Judicial Activism in the Indonesian Constitutional Court Decisions in Regional Head Electoral Disputes," *Constitutional Review* 11, no. 1 (May 2025): 39–40, <https://doi.org/10.31078/consrev1112>.

⁴ Ahmad Siboy and Sholahuddin Al-Fatih, "Indonesian Presidential Election on Presidential Threshold Policy: Evidence from Various Countries," *Journal of Human Rights, Culture and Legal System* 5, no. 3 (2025), <https://doi.org/10.53955/jhcls.v5i3.639>.

⁵ Miriam Budiardjo, *Dasar-Dasar Ilmu Politik*, Revisi (Jakarta: Gramedia, 2007), 105 and 114–15.

constitutional democracy; that is, democracy is exercised in accordance with constitutional principles.⁶ Furthermore, elections mean that human rights, particularly civil and political rights, are recognized.⁷

Constitutionally, the provisions on elections in Indonesia are set out in Article 22E of the 1945 Constitution, which stipulates that elections are held to elect the President/Vice President and members of the legislature, including members of parliament (*in casu*, the DPR, DPD, and DPRD). In its development, the scope of the electoral regime has also expanded, especially after the Constitutional Court Decision No. 85/PUU-XX/2022, which affirmed the authority of the Constitutional Court to hear disputes over the results of regional head elections (hereinafter, “*pilkada*”) without the need to establish a special judicial body.⁸ Thus, under the Constitution, the Constitutional Court is authorized to hear disputes over the results of both national and regional elections. In addition, through Decision No. 135/PUU-XXII/2024, the Constitutional Court set “gap years” of 2 to 2.5 years between national and local elections. Both decisions represent important developments in the construction of the Constitutional Court’s authority and in the expansion of the electoral regime, thereby increasing the complexity of disputes that must be resolved within the framework of constitutional law.

The organization of elections (including regional elections or *pilkada*) often does not run smoothly due to disputes or legal issues during implementation. Law No. 7/2017 on Elections categorizes several types of election disputes, including: (1) process disputes; (2) disputes over results; (3) election administration violations; (4) election crimes; (5) election administrative disputes; and (6) violations of the election

⁶ Ahmad Siboy and Ilham Dwi Rafiqi, “The Design to Limit Regulations Governing Regional Head Elections,” *Legality: Jurnal Ilmiah Hukum* 34, no. 1 (March 2026): 193, <https://doi.org/10.22219/ljih.v34i1.43527>.

⁷ Janedjri M. Gaffar, “Peran Putusan Mahkamah Konstitusi dalam Perlindungan Hak Asasi Manusia terkait Penyelenggaraan Pemilu,” *Jurnal Konstitusi* 10, no. 1 (May 2016): 11–12, <https://doi.org/10.31078/jk1011>.

⁸ I. Dewa Gede Palguna and Bisariyadi, “Kewenangan Mahkamah Konstitusi Memutus Perselisihan Hasil Pemilihan Kepala Daerah,” *Jurnal Konstitusi* 20, no. 1 (May 2023): 3–14, <https://doi.org/10.31078/jk2011>.

organizer's code of ethics.⁹ Of these types of electoral disputes, the Constitutional Court is the only state institution whose authority is mentioned *expressis verbis* in Article 24C (1) of the 1945 Constitution to decide disputes over election results with final and binding decisions.¹⁰

The phrase “disputes over election results” in Article 24C (1) is subject to debate due to its complex interpretation. This debate, which began in 2004 with the Constitutional Court's first hearing of the Presidential Election case, continued until the 2024 Election. The interpretation of the phrase “dispute over the election results” has shifted with each election, as the 1945 Constitution does not provide an *expressis verbis* constitutional interpretation of the term. In practice, the phrase is highly dependent on the law's normative aspects, as reflected in the DPR and the President's interpretations,¹¹ including the Constitutional Court's interpretation when adjudicating election cases.

The phrase “dispute over election results” is often narrowly interpreted as the authority to assess discrepancies in the number of votes determined by the election organizer, *in casu* the General Election Commission (often abbreviated as “KPU”). As a result, the role of the Constitutional Court tends to be reduced to a mere “Court of Vote Counting,” or, sarcastically, the “Court of Calculators,” given that it is overly focused on questioning the significance of numerical differences, overlooking process violations that affect the results.¹² The consistency

⁹ Topo Santoso and Ida Budhiati, *Pemilu Di Indonesia: Kelembagaan, Pelaksanaan, Dan Pengawasan* (Jakarta: Sinar Grafika, 2019), 277.

¹⁰ Dian Agung Wicaksono and Bimo Fajar Hantoro, “Pemaknaan Putusan Pluralitas Dalam Syarat Pencalonan Presiden Dan Wakil Presiden: Kajian Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023,” *Jurnal Yudisial* 17, no. 2 (December 2024): 151–52, <https://doi.org/10.29123/jy.v17i2.702>; Aan Eko Widiarto, “Implikasi Hukum Pengaturan Hukum Acara Mahkamah Konstitusi Dalam Bentuk Peraturan Mahkamah Konstitusi,” *Jurnal Konstitusi* 16, no. 1 (April 2019): 26–27, 1, <https://doi.org/10.31078/jk1612>.

¹¹ Muchamad Ali Safa'at, “Pembentukan UU yang Demokratis,” Kompas.id, October 17, 2020, <https://www.kompas.id/artikel/pembentukan-uu-yang-demokratis>.

¹² Amiruddin Amiruddin and Rizki Ramadani, “Judicial Activism in Regional Head Election Dispute: The Practice and Consistency of The Indonesian Constitutional Court,” *Substantive Justice International Journal of Law* 6, no. 1 (June 2023): 58, <https://doi.org/10.56087/substantivejustice.v6i1.230>.

and constancy of the benchmark of “disputes over election results” are then questioned for its constitutional and legally certain application.

A normative question then arises regarding the scope and constitutional meaning of the phrase “disputes over election results” in Article 24C of the 1945 Constitution. Does the phrase only cover disputes over the number of votes cast, or does it also include an assessment of the process that influenced the election result? In practical terms, the expansion of the Constitutional Court’s authority could conflict with other institutions’ authority, particularly the General Election Supervisory Agency (hereinafter, “Bawaslu”), which is also authorized to handle administrative election violations.¹³ In addition, the fragmented electoral law enforcement system, which divides the handling of violations into administrative, ethical, criminal, and outcome domains, also results in the absence of an integrated mechanism to assess the link between process violations and election results. Consequently, serious violations in the electoral process do not always have direct implications for the legal validity of election results.

Under these conditions, narrowly limiting the Constitutional Court’s authority to conduct quantitative assessments may ignore the substance of electoral justice. Conversely, unlimited expansion of authority also risks judicial overreach and legal uncertainty. The absence of clear, firm, and consistent parameters for the phrase concerned will affect whether electoral justice is realized. The International Institute for Democracy and Electoral Assistance (“IDEA”) defines electoral justice as a means and mechanism to ensure that every action, procedure, and decision works in accordance with the law to protect or restore the exercise of electoral rights by enabling the aggrieved party to file a complaint, follow the hearing process, and obtain a decision.¹⁴ While this definition provides an influential normative framework for designing

¹³ Bakhrul Amal, “Kewenangan Mengadili oleh Bawaslu atas Sengketa Proses Pemilu yang Diatur dalam Peraturan Komisi Pemilihan Umum,” *Masalah-Masalah Hukum* 48, no. 3 (July 2019): 306–11, <https://doi.org/10.14710/mmh.48.3.2019.306-311>.

¹⁴ Jesús Orozco-Henríquez et al., “Electoral Justice: The International IDEA Handbook,” Stockholm: International IDEA, 2010, 1, <https://www.idea.int/publications/catalogue/electoral-justice-international-idea-handbook>.

electoral dispute resolution mechanisms, it does not resolve an important debate in electoral law regarding the scope of electoral justice itself in Indonesia context. Scholars continue to differ on whether electoral justice should be confined to ensuring procedural compliance with electoral rules or should also encompass substantive constitutional review capable of remedying violations that undermine the integrity, fairness, and democratic legitimacy of election outcomes.

Electoral justice can serve as a fairness framework for organizing elections in accordance with the principles of constitutional democracy and electoral regulations. And for protecting the rights of election participants and the political rights of citizens.¹⁵ Accordingly, this article adopts the latter perspective by treating electoral justice as a constitutional principle requiring an integrated assessment of both the electoral process and its outcomes. From this standpoint, the Constitutional Court's authority cannot be understood solely through the lens of vote tabulation; rather, it must be interpreted in light of its constitutional function to safeguard the integrity of democratic elections.

The realization of electoral justice is fundamental, as it determines the extent to which elections are held in accordance with electoral principles (direct, general, free, confidential, honest, and fair) and produce credible, accountable leaders of integrity.¹⁶ Therefore, the concept of electoral justice, procedural certainty, and dispute resolution are always inextricable.¹⁷ When this electoral justice fails to manifest, the implications for the sustainability of democracy are often very serious, as it will put the state order in chaos, leading to a crisis of political legitimacy

¹⁵ Rahmat Bagja et al., "Towards Electoral Justice: Redesigning an Ideal System for Enforcing Electoral Administrative Law in Indonesia?," *Jambe Law Journal* 8, no. 2 (December 2025): 808–10, <https://doi.org/10.22437/9et5k513>.

¹⁶ Rahmat Muhajir Nugroho, Sobirin Sobirin, and Reyhan Gymnastiar, "Judicial Activism vs. Electoral Justice: The Overlooked Purcell Principle in Indonesia," *Jurnal Hukum IUS QUIA IUSTUM* 32, no. 2 (September 2025): 374, <https://doi.org/10.20885/iustum.vol32.iss2.art5>.

¹⁷ Sahran Raden, "The Theory of Fairness with Integrity in Indonesia's Electoral Justice System," *Fiat Justisia: Jurnal Ilmu Hukum* 18, no. 2 (October 2024): 193, <https://doi.org/10.25041/fiatjustisia.v18no2.3432>.

(officials and policies), oligarchic hijacking, political and social instability, and citizen political apathy.

Some previous studies have discussed the Constitutional Court's authority to adjudicate election-related disputes. *First*, Chofifi and Kusdarini analyze the evolution of the Constitutional Court's authority in deciding disputes over presidential election results, emphasizing the political aspects of law and outlining the impact of the Court's decisions on the legitimacy of election results and political stability in 2024.¹⁸ However, their analysis primarily focuses on the political implications of the Court's decisions rather than examining the constitutional interpretation underlying the expansion of its adjudicative authority.

Second, Widiastuti's research analyzed the authority of the Constitutional Court in the implementation of the 2024 Presidential Election, concluding that the Constitutional Court was designed to adjudicate disputes over quantitative results but, in its development, began to allow the assessment of qualitative aspects. However, it remained dominant, making interesting legal choices.¹⁹ Nevertheless, the study mainly describes this doctrinal shift without explaining its constitutional justification or its implications for the institutional design of electoral dispute resolution. Accordingly, neither study specifically examines how the constitutional meaning of the Constitutional Court's authority has evolved from a quantitative vote-tabulation approach toward substantive electoral justice, nor do they analyze this evolution in light of the original intent of Article 24C of the 1945 Constitution.

The two studies above have not specifically examined the reconstruction of the constitutional meaning of the Constitutional Court's authority in the context of a shift from a quantitative to a substantive approach to electoral justice, nor have they considered the current institutional posture of election organizers as regulated by law. Both studies differ from the legal issues discussed in this research, which

¹⁸ Ning Ayunda Chofifi and Eny Kusdarini, "Perkembangan Putusan Mahkamah Konstitusi dalam Menangani Perkara Perselisihan Hasil Pemilihan Umum Presiden," *Jurnal Hukum IUS QUILA IUSTUM* 31, no. 2 (September 2024): 408–33, <https://doi.org/10.20885/iustum.vol31.iss2.art8>.

¹⁹ Retno Widiastuti, "Dinamika Kewenangan MK Dalam Memutus Perselisihan Hasil Pemilihan Umum Presiden Dan Wakil Presiden Tahun 2024," *Jurnal Konstitusi* 23, no. 1 (March 2026): 097–111, <https://doi.org/10.31078/jk2315>.

analyzes the original intent and the development of the Constitutional Court's authority in resolving election-related disputes.

The urgency of this research is to analyze the evolution of the Constitutional Court's authority in resolving election-related disputes, focusing on the development of constitutional interpretation and its institutional implications. This research will provide significant, scientific contributions to address the gap in analysis of the integration between the assessment of election results and processes within the framework of electoral justice, as well as offering conceptual directions for strengthening the design of election law enforcement in line with the principles of constitutional democracy.

The problem formulations are based on the following questions: (1) How is the meaning of the Constitutional Court's authority developed in deciding disputes over election results? (2) How are the elements of "structured, systematic, and massive" actualized as the basis for the Constitutional Court's authority in deciding disputes over election results? Moreover, (3) how is the Constitutional Court's authority strengthened to enforce the election law to realize electoral justice?

This research is normative and uses statutory and conceptual approaches.²⁰ The normative type emphasizes analyzing the Constitutional Court's constitutional authority to adjudicate disputes over election results and to realize electoral justice in accordance with the mandate of the 1945 Constitution. The statutory approach examines the constitutional and statutory framework governing electoral dispute resolution, particularly the 1945 Constitution, Law No. 7 of 2017 on General Elections, relevant legislation governing regional elections, and Constitutional Court decisions interpreting Article 24C of the Constitution. Meanwhile, the conceptual approach employs constitutional authority, constitutional interpretation, and electoral justice as analytical frameworks to evaluate the Court's development of jurisdiction over electoral disputes.

²⁰ Zainuddin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2009), 24; Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi*, 13th ed. (Jakarta: Prenada Media, 2016), 133–36.

The legal materials used in the analysis of this research consist of primary legal materials comprising the Constitution, statutes, and Constitutional Court decisions, as well as secondary legal materials in the form of books, journal articles, and other scholarly publications relevant to constitutional and electoral law. Constitutional Court decisions were selected purposively for their relevance to the development of the Court's interpretation of election results, particularly those that illustrate the evolution from a purely quantitative assessment of vote tabulation to the consideration of substantive electoral justice.

Research analysis uses grammatical and systematic techniques. Grammatical interpretation was employed to examine the ordinary meaning of constitutional provisions, particularly the phrase "disputes over election results" contained in Article 24C of the 1945 Constitution.²¹ Systematic interpretation was applied by construing these provisions within the broader structure of the Constitution and the Indonesian electoral legal framework, as well as by examining the consistency of the Constitutional Court's reasoning across its decisions. Finally, this research is prescriptive in nature, aiming not merely to describe or interpret existing legal norms, but also to evaluate their adequacy and formulate recommendations for strengthening the Constitutional Court's authority and Indonesia's electoral dispute resolution system in accordance with the principles of constitutional democracy and electoral justice.²²

A. The Development of the Meaning of the Authority of the Constitutional Court in Deciding Disputes on Election Results

The idea of the authority to hear election disputes began to emerge between 2000 and 2001 when the 1945 Constitution was amended. In

²¹ Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*, Ed. 1, Cet. 11 (Depok: Rajawali Pers, 2019); Jimly Asshiddiqie, *Perihal Undang-Undang* (Depok: Rajawali Pers, 2020).

²² Peter Mahmud Marzuki, "The Essence of Legal Research Is to Resolve Legal Problems," *Yuridika* 37, no. 1 (March 2022): 39, <https://doi.org/10.20473/ydk.v37i1.34597>.

the discussion of the amendment, the terms used by various factions in the sessions of the People's Consultative Assembly (hereinafter "MPR") varied, ranging from "disputes over election results" and "election disputes" to "settlement of election disputes and others related to elections."²³ The Expert Team report submitted by Jimly Asshiddiqie even mentioned that the scope of authority for election disputes could basically be developed in the law. So conceptually, lawmakers can interpret election disputes more broadly, transcending the final result to encompass aspects of the process, ensuring the purity and integrity of elections as the foundation of democracy.²⁴

In the end, the term "election result dispute" was more widely used and adopted in the formulation of Article 24C (1) of the 1945 Constitution. However, it lacked a clear explanation of its scope of interpretation and limitations. When examining the early stages of the session in MPR, there was no tendency to limit the Constitutional Court's authority to the election results alone, as interpreted to mean the final figures determined by the KPU.²⁵ This is reflected in the proposal by several MPR members that the Constitutional Court also have the authority to resolve disputes arising during the entire implementation of the election, including the process.

When the conversation script revealing the reasons behind the use of the phrase "dispute over election results" was used during the amendment of the 1945 Constitution, no clear answers can be found regarding its appearance or its official interpretation. This point is emphasized in the Comprehensive Manuscript prepared by the Constitutional Court, which states that it is necessary to authorize the Constitutional Court to deal with election disputes. However, the nomenclature and meaning of this dispute over results seem to receive little attention.

²³ Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi, *Naskah Komprehensif Perubahan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945: Latar Belakang, Proses, Dan Hasil Pembahasan 1999-2002 Buku VI Kekuasaan Kehakiman* (Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi, 2010), 393, 471, 511, and 532.

²⁴ Ibid., 497.

²⁵ Ibid., 456.

The Comprehensive Manuscript states, *“Similar to the debate on the authority of the Constitutional Court to dissolve political parties, the debate on the authority of the Constitutional Court to decide disputes over election results is also not found in the minutes of the discussions of the PAH MPR RI. In both the minutes of the 2000 MPR session and the 2001 MPR session, there were very few proposals on this matter. The proposal regarding the authority of the Constitutional Court in handling disputes over election results surfaced at the 35th Plenary meeting of PAH I MPR RI 2001, on September 25, 2001, with the agenda of discussing Chapter IX articles 24 and 25 on judicial power.”*

I Dewa Gede Palguna, when he was on the MPR Working Committee to amend the 1945 Constitution, also briefly mentioned the authority of the Constitutional Court, saying, *“... And then decide on disputes or the authority of state institutions, then also to give a decision if a general election result is questioned.”*²⁶

Hamdan Zoelva also briefly stated, *“It is rather difficult for us to include all other authorities here in the constitution. Later we will regulate other authorities in laws relating to them; for example, we regulate the issue of political parties in the Law on Political Parties and give the Constitutional Court authority to decide disputes related to political parties. Likewise, with the issue of general elections, we regulate it later in the General Election Law by giving the Constitutional Court the authority to decide certain matters that cause problems in the general election.”*²⁷

After being authorized as a high state institution with authority to hear disputes over election results, the Constitutional Court first exercised its authority when direct elections were held for the first time in 2004. At that time, the Constitutional Court heard cases on the results of the legislative and executive elections. The first election case was decided in Constitutional Court Decision No. 062/PHPU-B-II/2004, involving the Petitioners Wiranto and Salahuddin Wahid, who were then candidates for President/Vice President in 2004. The Petitioners did not accept the election results based on KPU Decision No. 79/SK/KPU/2004 with the argument that they had lost 2.230.220 voters due to the discrepancy between the number of voters and the number of

²⁶ Ibid., 365.

²⁷ Ibid., 514.

polling stations between KPU Decision No. 79/SK/KU/2004 and KPU Decision No. 39 of 2004.

However, the Petitioners' quantitative argument does not stand alone, but together with qualitative arguments, including, *first*, the inconsistency of national vote counting standards due to the issuance of KPU Letter No. 1151/15/VII/2004 and KPU Letter 1152/15/VII/2004 which created uncertainty due to changes in the qualifications of valid ballots;²⁸ *second*, the unsynchronized manual data with digital data due to the alleged act of tampering with the results of vote counting from polling stations carried out by PPS, PPK, and KPU;²⁹ *third*, allegations of money politics tarnishing the principle of free elections;³⁰ *fourth*, the use of information technology considered to lead public opinion, thereby rendering it contrary to the principle of fair elections; *fifth*, the non-responding KPU to the petitioner's objection to the issuance of KPU Decision No. 79/SK/KPU/2004 dated July 26, 2004.

After examining the arguments of the petition, the Constitutional Court, in its *ratio decidendi*, explicitly states that its authority, in the context of an election result dispute, is limited to quantitative testing, namely, significant vote discrepancies that result in losses for the petitioner. Qualitative arguments will only be assessed if proven to violate the principles of direct, general, free, confidential, honest, and fair elections in accordance with Article 22E of the 1945 Constitution.³¹ The following Table presents the petition and the Constitutional Court's *ratio decidendi* in the case concerned.

²⁸ Constitutional Court Decision No. 062/PHPU-B-II/2004, 9-11.

²⁹ Constitutional Court Decision No. 062/PHPU-B-II/2004, 11-12.

³⁰ Constitutional Court Decision No. 062/PHPU-B-II/2004, 11.

³¹ Constitutional Court Decision No. 062/PHPU-B-II/2004, 54.

TABLE 1. Argumentation of the Petitioners and Ratio Decidendi of Constitutional Court Decision No. 062/PHPU-B-II/2004.

No.	Petitioner's <i>Posita</i>	The Constitutional Court's <i>Ratio Decidendi</i>
1.	Errors in the national vote count.	Triggering “juridical controversy” about the qualifications of valid ballots, but not the authority of the Constitutional Court. ³²
2.	Unsynchronized manual data with digital data.	The organization of national tabulation of elections based on information technology is carried out by parties outside KPU to avoid confusion with the use of manual data.
3	Allegations of money politics tarnishing the principle of free elections.	No consideration found.
4	The use of information technology considered to lead public opinion, so that it is contrary to the principle of fair elections.	The KPU’s good intention is to fulfill the constitutional right to information, and it must prevent the perception of leading unfair public opinion. ³³
5	No response to the submission of the Petitioner’s objection by the KPU.	No consideration found.

Source: primary legal materials, processed, 2026.

The Constitutional Court’s *ratio decidendi* holds that the Petitioner’s qualitative arguments do not constitute violations that threaten the principles of elections or affect the significance of the

³² Constitutional Court Decision No. 062/PHPU-B-II/2004, 11.

³³ Constitutional Court Decision No. 062/PHPU-B-II/2004, 55

Petitioner's vote-acquisition figures. The Petitioner's qualitative arguments are beyond the Constitutional Court's authority and should be the KPU's concern for electoral improvement. However, in Decision No. 062/PHPU-B-II/2004, the Constitutional Court recognized that KPU Letter No. 1151/15/VII/2004 and KPU Letter 1152/15/VII/2004 sparked "juridical controversy" concerning the qualifications of valid ballots. However, the settlement mechanism had been provided in the form of sectoral and local legal remedies.³⁴ Inferentially, the Constitutional Court is resistant to qualitative arguments, although it opens a small gap through which a decision can be made if qualitative violations are proven to contravene electoral principles and significantly affect the vote difference.

However, in Decision No. 062/PHPU-B-II/2004, the Constitutional Court did not provide clear parameters regarding the size of the "significant influence", both in terms of indicators, methods of proof, and standards of assessment, resulting in uncertainty for petitioners, thereby potentially weakening the consistency of enforcement of electoral justice. The Constitutional Court primarily considered the quantitative violation argument by matching of vote-count results. However, if there was a difference in votes, the petitioner could not prove that the difference was theirs. Therefore, the arguments were declared unproven. This first election result dispute decision illustrates that the Constitutional Court initially understood its constitutional authority primarily through a quantitative assessment of vote tabulations in official election documents. However, the decision also revealed the Court's early recognition that qualitative violations could be relevant when they materially undermined the constitutional principles underpinning free and fair elections.

Then it continued in 2008, when the Pilkada were held. Concerning this event, the Constitutional Court was authorized by Article 236C of Law No. 12 of 2008 to decide disputes over the election vote count results. Interestingly, in the first election case handled by the Constitutional Court in Decision No. 41/PHPU.D-VI/2008 related to the East Java Governor Election, the Constitutional Court referred to a new term: structured, systematic, and massive (hereinafter, TSM)

³⁴ Constitutional Court Decision No. 062/PHPU-B-II/2004, 54.

violations which were considered to tamper with the results of the vote count significantly.³⁵ The Constitutional Court also recognizes that the scope of election disputes within its authority under Law No. 12 of 2008 is very rigid and limited. Thus, when viewed textually, it will appear that the regulation is not firm and clear.³⁶

In its *ratio decidendi*, the Constitutional Court emphasized that its authority is not limited solely to the technical-mathematical recount of votes; it also includes an assessment of the process behind the vote count results. The Court is of the view that violations that may affect election results can still be examined, provided they are not interpreted as usurping the functions of criminal or administrative justice.³⁷ In other words. However, the formal object being examined is the result of the vote count; the process aspect remains integral to upholding electoral justice.

In Decision No. 41/PHPU.D-VI/2008 regarding the East Java Governor Election, the Constitutional Court held that the violations in the case could not be resolved by a vote recount alone; re-voting was necessary. It was based on the finding that the violations that occurred were structured, systematic and massive (“TSM”), and took place not only at the time of voting, but also before and after.³⁸ In general, it is referred to as “structured” if the violation involves government officials and/or election organizers; “systematic” if it is conducted in a planned and organized manner; and “massive” if the impact on the election results is widespread and significant. Therefore, the Constitutional Court emphasized that the assessment of election results must consider the entire series of processes that influence their formation.

The introduction of the TSM concept marked a significant doctrinal development in the Court’s constitutional interpretation. Rather than borrowing an established concept from foreign electoral jurisprudence, the Constitutional Court formulated TSM as a judicial standard to distinguish ordinary electoral irregularities from exceptional violations capable of fundamentally distorting the constitutional

³⁵ Constitutional Court Decision No. 41/PHPU.D-VI/2008, 126, 129, 131, 132, 133-134, and 135.

³⁶ Constitutional Court Decision No. 41/PHPU.D-VI/2008, 126.

³⁷ Constitutional Court Decision No. 41/PHPU.D-VI/2008, 129.

³⁸ Constitutional Court Decision No. 41/PHPU.D-VI/2008, 131.

legitimacy of election results. This doctrinal innovation reflected the Court's recognition that a purely quantitative approach was insufficient to address serious electoral misconduct that could not be adequately remedied through ordinary electoral law enforcement mechanisms.

Constitutional Court Decision No. 41/PHPU.D-VI/2008 is classified as a monumental decision,³⁹; that is, this decision is born from a judicial activism approach that contains legal breakthroughs to address ongoing constitutional issues and provide legal solutions in line with constitutional principles and substantive justice.⁴⁰ Although Decision No. 41/PHPU.D-VI/2008 was in the context of an regional election case, which, back then, was still differentiated from an election, the Constitutional Court subsequently relied on the TSM concept as an interpretative framework in election result disputes. This development illustrates an important shift from viewing election results as merely numerical outcomes toward understanding them as products of a constitutionally legitimate electoral process. At the same time, this doctrinal evolution also raises an important constitutional question: whether such an expansion remains consistent with the textual limits of Article 24C of the 1945 Constitution or risks extending the Court's jurisdiction beyond its original constitutional mandate. This issue is examined further in the following discussion.

Until then, when the 2009 Presidential Election was held, the Constitutional Court Decision No. 108-109/PHPU.B-VII/2009 was issued, involving Jusuf Kalla and Wiranto as Petitioners I, and Megawati Soekarnoputri and Prabowo Subianto as Petitioners II. The following Table presents an argument comparison between the petitioners and the Constitutional Court's *ratio decidendi*.

³⁹ Rosa Ristawati and Radian Salman, "Judicial Independence Vis-à-Vis Judicial Populism: The Case of Ulayat Rights and Educational Rights," *Constitutional Review* 6, no. 1 (2020): 110–32, <https://doi.org/10.31078/consrev614>.

⁴⁰ Labib Muttaqin et al., "Is the Legislator in the Constitutional Court? Examining the Tension Between Judiciary and Democracy in Indonesia," *Journal of Indonesian Legal Studies* 10, no. 1 (August 2025): 106–14, <https://doi.org/10.15294/jils.v10i1.13494>.

TABLE 2. Argumentation of the Petitioners and Ratio Decidendi of Constitutional Court Decision No. 108-109/PHPU.B-VII/2009.

No.	Petitioner's <i>Posita</i>	Court's <i>Ratio Decidendi</i>
1.	Errors in the national vote count.	Causing “juridical controversy” about the qualifications of valid ballots, but not the authority of the Constitutional Court.
2.	Unsynchronized manual data with digital data.	The organization of national tabulation of elections based on information technology is carried out by parties outside KPU to avoid confusion with the use of manual data.
3	Allegations of money politics affecting the principle of free elections.	Not considered.
4	The use of information technology considered to lead public opinion, so that it is contrary to the principle of fair elections.	KPU’s good intention to fulfill the constitutional right to information, and must prevent the perception that it can lead unfair public opinion.
5	No response to the submission of the Petitioners’ objection by the KPU.	Not considered.

Sources: primary legal materials, 2025 (edited by authors).

In this case, the Constitutional Court judges have jumped further than the *ratio decidendi* found in the 2004 election result dispute case. The Constitutional Court considers it necessary to explore the values of

justice by examining violations that cause discrepancies in vote counts.⁴¹ Not only serving as a calculator of the vote count results, but it also approaches the causal relationship (*causaal verband*), thereby causing the difference in claims of election results between the petitioner and the respondent. However, upholding substantive justice should not allow the Constitutional Court to ignore the law. Unless, in the worst case, the enforcement of the law provides a sense of justice, the Constitutional Court can ignore it to make its own decision.⁴² To remain based on rationality and generally accepted, qualitative errors in the electoral process, TSM violations can be sanctioned.⁴³

Constitutional Court Decision No. 108-109/PHPU.B-VII/2009 marked an important shift from an approach that initially tended to be “quantitative” towards a more integrative approach between results and process (*red. hybrid*), where the Constitutional Court began to place TSM violations as key factors to assess whether an electoral process had undermined the legitimacy of the result, thus contradicting electoral principles.⁴⁴ The Constitutional Court also recognized that the 2009 Presidential Election still had institutional weaknesses due to the KPU’s suboptimal and unprofessional performance.

In Decision No. 108-109/PHPU.B-VII/2009, the Constitutional Court explicitly stated that the examination of legal facts or matters recognized by the parties in the trial was grouped into two issues: qualitative and quantitative.⁴⁵ It was in that Decision that the Constitutional Court began to open itself up to examining process violations. However, the absence of measurable criteria for the limits and proof of TSM violations indicates that this shift has not been fully supported by an established methodological framework and legal justification; therefore, uncertainty remains. Despite limitations in juridical construction, at least Constitutional Court Decision No. 108-

⁴¹ Constitutional Court Decision No. 108-109/PHPU.B-VII/2009, 317-318.

⁴² Constitutional Court Decision No. 108-109/PHPU.B-VII/2009, 325.

⁴³ Constitutional Court Decision No. 108-109/PHPU.B-VII/2009, 326.

⁴⁴ Misbahuddin Gasma et al., “Substantive Justice in Regional Election Dispute Resolution: Analyzing the Constitutional Court’s Approach and Challenges in Indonesia,” *Pakistan Journal of Life and Social Sciences (PJLSS)* 23, no. 1 (2025): 3883, <https://doi.org/10.57239/PJLSS-2025-23.1.00306>.

⁴⁵ Constitutional Court Decision No. 108-109/PHPU.B-VII/2009, 326-327.

109/PHPU.B-VII/2009 has begun to emphasize that disputes over results can be assessed qualitatively, with implications for the acquisition of election results.

An excerpt from *ratio decidendi* of Constitutional Court Decision No. 108-109/PHPU.B-VII/2009 regarding qualitative disputes of results reads: “... *the chaos of the preparation and determination of the Permanent Voters List (DPT), regrouping and/or reducing the number of polling stations, the cooperation or assistance of IFES, the existence of banners made by the Respondent regarding voting procedures, the circulation of illegal “C-1 PPWP” model forms, and the existence of various election violations both administrative and criminal in nature, although some were proven in the trial, but they were not or could not be considered as election violations that were structured, systematic, and massive, so that they also did not cause the election to be legally defective or invalid. Nevertheless, for the betterment of future elections, professional measures are needed in both the formulation of the Law and the implementation of the KPU’s duties. In line with that, criminal election violations and other election violations that have not been followed up on, even though they do not significantly affect the composition of the vote, can be processed further.*”⁴⁶

Furthermore, at the time of the settlement of the dispute over the 2014 election results, in Decision No. 1/PHPU.PRES-XII/2014, the Constitutional Court remained of the opinion that any *causal verband* relationship that caused the difference in vote acquisition could still be tested if there were truly TSM violations.⁴⁷ Then there is the

⁴⁶ Constitutional Court Decision No. 108-109/PHPU.B-VII/2009, 366.

⁴⁷ The Constitutional Court based this *ratio decidendi* on several of its jurisprudence. *First*, Constitutional Court Decision No. 41/PHPU.D-VI/2008 which contains jurisprudence that a fraudulent election process with vote acquisition requires the Court to further examine “violations of election procedures”. *Second*, Constitutional Court Decision No. 31/PHPU.D-VIII/2010 which contains jurisprudence that the court can overturn the KPU’s decision if it is proven according to the law and the judge’s belief that there is a violation in the electoral process. *Third*, Constitutional Court Decision No. 45/PHPU.D-VIII/2010 which contains jurisprudence that the Constitutional Court can adjudicate violations that are planned in such a way, occur widely, and are carried out in a structured manner from the highest level to the lowest level (starting from candidate pairs, campaign teams, and all volunteer teams, up to the RT level). *Fourth*, Constitutional Court

development of the Constitutional Court's interpretation of its authority in deciding election result dispute cases, which can be observed in Decision No. 75/PUU-VIII/2010. In the Decision, a *ratio decidendi* reads, "According to the Court, the definition of deciding on disputes over the "results" of general elections is broader than deciding (disputes over) the "results of vote counting" as referred to in Article 106 (2) of Law No. 32 of 2004 concerning Regional Government. Moreover, according to several election-related laws, the definition of general elections includes the process starting from the preparation, implementation, and final stages of the election results. Vote counting is only one part of the final stage of general elections. If the general election process is held in accordance with the principle of direct, general, free, confidential, honest, and fair, then the results can also reflect the real truth; on the other hand, if the general election fails to comply with this principle, then the results are not trusted."

This quote shows that although the Constitutional Court has identified various violations in the electoral process, not all violations are automatically qualified as TSM violations with their impact on the validity of the election results. In this case, the Constitutional Court applied caution when assessing the relationship between qualitative violations and election results. This shows that the Constitutional Court's stance on using the qualitative approach it has recognized is still limited by the requirement that there be a significant impact on the results, thus maintaining a balance between correcting the process and the stability of the election results.

In 2019, Decision No. 01/PHPU-PRES/XVII/2019 also reaffirmed the authority of the Constitutional Court in deciding election result dispute cases. It even touched on the debate between procedural justice and substantive justice. The Constitutional Court firmly rejects the view that reduces its role as a mere "*Calculator Court*" or simply "*doing technical work*".⁴⁸ The Court asserted that its authority did not revolve solely around the number of votes but also included an assessment of the electoral process that influenced the results.⁴⁹

Decision No. 144/PHPU.D-VIII/2010 which contains jurisprudence that the Constitutional Court can hear cases of structured, systematic and massive violations.

⁴⁸ Constitutional Court Decision No. 01/PHPU-PRES/XVII/2019, 1826-1827.

⁴⁹ Constitutional Court Decision No. 01/PHPU-PRES/XVII/2019, 1826-1827.

The new election held in 2024 is a crucial case, as many polemics and complex political debates have arisen. The debate on the dispute over the 2024 election results, particularly in the context of the Presidential Election, is recorded in Decision No. 1/PHPU.PRES-XXII/2024 and Decision No. 2/PHPU.PRES-XXII/2024. In the legal considerations of the two Decisions, judges (the majority) tended to serve as the foundation for resolving all problems arising from the implementation of elections, thus tending to apply judicial restraint. This differs from the case where, for example, three judges have different opinions, so that the two decisions have appeal. This is because, in the history of the Constitutional Court, the case with three judges having dissenting opinions is unprecedented.

In both cases, the Constitutional Court rejected the petition entirely because the argument of TSM fraud was not proven. However, in the legal facts, legal considerations, and dissenting opinions, the Constitutional Court's authority in deciding disputes over election results is also likely to be influenced by qualitative legal factors, such as social assistance, the neutrality of the apparatus, and political dynasties. These issues were heavily debated in court and discussed extensively in the legal considerations by both the majority and dissenting judges.

The dissenting opinions of the three judges (Saldi Isra, Enny Nurbaningsih, and Arief Hidayat) also adhered to the view that the violations could be categorized as TSM and proven to significantly change the vote rankings. Interestingly, the three judges, in their differing views, elaborated clearly on issues of the non-neutrality of the apparatus and the provision of social assistance during the election administration phase. Based on these legal facts, the three judges considered it sufficient to establish that TSM violations occurred in several regions and should have implications for revoting.

The three judges who held different opinions, surprisingly, did not explicitly recalculate the exact number of votes in the trial. These dissenting opinions mark a significant development in the interpretation of "disputes over election results," emphasizing the importance of achieving substantial justice rather than simply validating the KPU's vote count. Nevertheless, the dissenting opinions reflect the views of minority judges who differ from the majority.

Based on the development of the juridical meaning of the phrase “disputes over election results” in the Constitutional Court’s decisions, it appears that the authority of the Constitutional Court in deciding such disputes has gradually evolved from a predominantly quantitative approach to a more integrative approach that balances results and processes. Even the latest development in the 2024 election result dispute case has begun to consider qualitative issues that affect vote acquisition. This development certainly indicates a positive and constructive development, in that the phrase “dispute over election results” no longer has a narrow meaning as a mere dispute over the number of votes cast, but rather includes an assessment of the quality of the process that influenced the results.

However, this shift has not been fully reflected in consistent, measurable parameters, particularly in determining the causal relationship between violations of the electoral process and the results. Therefore, a reconstruction of the meaning of the Constitutional Court’s authority is needed, and it should not only emphasize the substantive expansion of interpretation but also be equipped with clear limits and indicators to ensure that its application continues to guarantee legal certainty while realizing electoral justice.

B. Actualization of “Structured, Systematic, and Massive” (“TSM”) Elements as the Basis for the Authority to Decide Disputes on Election Results

As explained earlier, the term TSM first appeared in the East Java Governor Election case through Constitutional Court Decision No. 41/PHPU.D-VI/2008. From the perspective of judicial legal politics,⁵⁰ the Constitutional Court’s emergence of the concept of TSM can be understood as a response to non-ordinary election violations that have broad, organized impacts on the integrity of the constitutional democratic process. Therefore, pursuant to Law No. 7/2017, the authority to resolve administrative violations of a TSM nature is vested in Bawaslu.

⁵⁰ Irfan Nur Rachman, *Politik Hukum Yudisial: Sumber Pembangunan Hukum Nasional* (Depok: Rajawali Pers, 2020).

Then, in the context of TSM election violations, if the election organizers, in this case Bawaslu, do not handle these violations, will the Constitutional Court be shackled by statutory restrictions that stop the court from adjudicating them?

Regarding this question, in the practice of resolving disputes over election results—for the election of the members of the DPR, DPD, President and Vice President, DPRD, and regional heads—the petitions submitted to the Constitutional Court are not limited to vote counts. These petitions generally include multiple arguments for other violations, such as administrative violations, election crimes, election administrative disputes, and alleged violations of the election organizers' code of ethics.⁵¹ If a TSM violation is proven and declared true, the Constitutional Court can disqualify the candidate pair and order a recount and re-voting.⁵²

If, for example, Bawaslu or other authorized institutions (district courts and state administrative courts) fail to follow up on or resolve violations, the Constitutional Court needs to assess whether other factors, such as the institution's unwillingness or inability, are involved. In this context, "unwillingness or inability" should not be understood merely as institutional inaction. Rather, it refers to circumstances in which the competent institution either: (i) refuses to exercise its statutory authority without adequate legal justification; (ii) fails to complete the adjudicative process within the legally prescribed timeframe; and/or (iii) issues a decision that manifestly fails to address proven violations capable of affecting the election results. Only under such exceptional circumstances does the Constitutional Court's intervention become constitutionally relevant as a corrective mechanism to preserve electoral justice.

For example, in Constitutional Court Decision No. 57/PHPU.D-VI/2008 concerning the South Bengkulu Regency elections, the aspect of unwillingness was involved. In its decision, the Constitutional Court

⁵¹ Refly Harun, "Rekonstruksi Kewenangan Penyelesaian Perselisihan Hasil Pemilihan Umum," *Jurnal Konstitusi* 13, no. 1 (May 2016): 7, <https://doi.org/10.31078/jk1311>.

⁵² M. Mahrus Ali et al., "Tafsir Konstitusional Pelanggaran Pemilu yang Bersifat Sistematis, Terstruktur Dan Masif," *Jurnal Konstitusi* 9, no. 1 (2012): 217–18, <https://doi.org/10.31078/jk918>.

found that the elected candidate pairs did not meet the administrative requirements, particularly regarding criminal history that was not fairly disclosed to the public.

A similar problem is also evident in the Constitutional Court Decision No. 135/PHP.BUP-XIX/2021 concerning the Dispute over the Results of the 2020 Sabu Raijua Regent and Deputy Regent Elections. The Constitutional Court decided that Candidate Pair Number 2 must be declared legally void. However, Law No. 1 of 2015 and its amendments do not regulate the authority of the Constitutional Court to disqualify candidate pairs.⁵³ The main cause of this case was that Orient Patriot Riwu Kore was found to have a United States passport and remain a United States citizen, thus not meeting the citizenship requirements stipulated in Article 7 of Law No. 10 of 2016. Therefore, the candidacy of Orient Patriot Riwu Kore and his deputy was declared null and void by law. Then the Constitutional Court ordered a re-vote, including only the remaining two pairs of candidates.

Nevertheless, this decision raises an important constitutional question because neither the Election Law nor the Regional Election Law expressly authorizes the Constitutional Court to disqualify candidates. Consequently, the Court's decision may be criticized as judicial overreach. However, this article argues that such intervention constitutes a legitimate exercise of judicial activism where ordinary electoral institutions fail to provide an effective constitutional remedy and the ineligibility of a candidate directly affects the validity of the election results. In this context, judicial activism represents the use of constitutional interpretation to overcome statutory deficiencies in order to protect constitutional rights and democratic principles, while remaining confined to exceptional circumstances to avoid judicial overreach.⁵⁴ Nevertheless, such judicial activism must remain exceptional and be exercised within constitutional limits to avoid judicial overreach.⁵⁵

The two cases above, Decision No. 57/PHPU.D-VI/2008 and Decision No. 135/PHP.BUP-XIX/2021, indicates an omission of

⁵³ Mochtar, "Guarding Democracy," 48.

⁵⁴ Pan Mohamad Faiz, "Dimensi Judicial Activism Dalam Putusan Mahkamah Konstitusi," *Jurnal Konstitusi* 13, no. 2 (2016): 408–10.

⁵⁵ Mochtar, "Guarding Democracy," 47–57.

violations that substantially affect the legitimacy of the election results. When adjudicating cases, the Constitutional Court assesses both the quantitative and qualitative aspects of the vote results that underlie their validity and guarantee substantive justice. As a consequence, in the above case, the Constitutional Court canceled the determination of the election results, disqualified the elected candidate pair, and ordered a re-vote without including the ineligible candidates. These cases also show that the formal limits of the Constitutional Court's authority are not always absolute when other institutions fail to enforce the law.

Although formally the Constitutional Court does not have the explicit authority to deal with violations such as electoral processes and administrative and criminal offenses, the Constitutional Court must prioritize the interests of the constitution when a conflict arises between the law and the constitution, or when there are actions that violate constitutional democracy principles, given the Constitutional Court's role as the guardian of the constitution. When all institutions fail to exercise their authority, the Constitutional Court may exercise its constitutional authority to resolve the dispute in accordance with the principles of constitutional democracy. Otherwise, leaving such violations unaddressed would not only undermine the legitimacy of the election results but also create a chain of continuing constitutional violations that further erode electoral integrity.

Justice in this case is interpreted not only procedurally but also substantively, in accordance with the concept of electoral justice, so that the formulation of the law does not absolutely limit the Constitutional Court.⁵⁶ This is also a consequence of the Constitutional Court's role as the protector of constitutional democracy in the context of elections.⁵⁷

Regarding subsequent developments in the context of elections, as set out in Decision No. 01/PHPU-PRES/XVII/2019, the

⁵⁶ Harry Setya Nugraha, "Redesain Kewenangan Mahkamah Konstitusi Dalam Penyelesaian Sengketa Perselisihan Hasil Pemilihan Umum Presiden Dan Wakil Presiden Di Indonesia," *Jurnal Hukum IUS QUIA IUSTUM* 22, no. 3 (2015): 433, <https://doi.org/10.20885/iustum.vol22.iss3.art5>.

⁵⁷ Muhammad Syauqi Bin-Armia et al., "From Constitutional Court to Court of Cartel: A Comparative Study of Indonesia and Other Countries," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 9, no. 2 (November 2024): 458, <https://doi.org/10.22373/petita.v9i2.437>.

Constitutional Court has emphasized the issue of election violations arising from acts of neglect. In one of its legal considerations, the Court stated, “... *in this case, the problem is what if the institution that has the authority to resolve administrative violations of a TSM nature does not exercise its authority, and this affects the election results. Against such problems, as previously considered, the Court will only hear such violations if the institution with the authority does not exercise its authority and, consequently, affects the results of the vote*”.⁵⁸

In this case, it is understood that the Constitutional Court’s authority in the context of TSM violations cannot be separated from its corrective function in addressing legal and institutional failures in election law enforcement. The election organizer is part of the executive branch, while the Constitutional Court is part of the judicial branch. It ensures that the Constitutional Court serves a *checks-and-balances* function against election organizers. If the organizers are unable or unwilling to handle the violations at issue, the Constitutional Court, as an institution authorized to adjudicate in the final stage of an election dispute, must assess and decide violations that affect the election results. This matter also aligns with the principle of “*litis finiri oportet*” (every case must have an end), as well as the principle of “*ubi jus incertum, ibi jus nullum*” (without legal certainty, the law loses its meaning).

In addition to the analysis above, it is important to consider normative provisions. Currently, several laws have adopted the term TSM, including Law No. 10 of 2016 (Pilkada Law) and Law No. 7 of 2017 (Election Law). The provisions of Article 135A of Law No. 10 of 2016 categorize TSM violations as administrative violations, which are then under the responsibility of Bawaslu to resolve them. Likewise, Article 463 of Law No. 7/2017 regulates one form of election administrative violation that occurs within the TSM scope, which is also under Bawaslu’s responsibility to resolve.

The provisions of Article 474 (1) of Law No. 7 of 2017 state, “*In the event of a dispute over the determination of the vote acquisition results of the elections for members of the DPR, DPD, and DPRD nationally, the Election Participants for members of the DPR, DPD, and DPRD may submit a petition to cancel the determination of the results of the vote*

⁵⁸ Constitutional Court Decision No. 01/PHPU-PRES/XVII/2019, 1827-1828.

counting by the KPU to the Constitutional Court.” The Explanation of the article also states that “*What is meant by “submitting a petition for the cancellation of the determination of the results of the vote count” is that what is submitted to the Constitutional Court is only related to what is requested to be canceled.*” When grammatically and systematically analyzed, the provisions of Article 474 (1) indicate that the authority of the Constitutional Court is limited to disputes over the results of the KPU’s determination. Meanwhile, under Article 463 (1), TSM violations are resolved by Bawaslu.

In practice, the Constitutional Court often emphasizes that arguments relating to administrative violations or election processes are, in principle, the authority of other institutions, such as Bawaslu, the Administrative Court (PTUN), and the integrated law enforcement center (Gakkumdu). Therefore, they must first be resolved through the available mechanisms before being submitted to the Constitutional Court. In recent developments, through Constitutional Court Decision No. 104/PUU-XXIII/2025, Bawaslu’s authority in handling administrative violations has been strengthened by giving it the character of a binding “decision”, no longer a mere recommendation. Nevertheless, to a certain extent, the Constitutional Court still provides space to assess arguments related to process violations, provided the violations meet the qualifications of TSM and are proven to have a significant influence on vote acquisition. This tendency is at least reflected in the dynamics of legal considerations in the 2024 Presidential Election case, particularly in Decision No. 1/PHPU.PRES-XXII/2024 and Decision No. 2/PHPU.PRES-XXII/2024. Since it is still limited to arguments in different opinions, it has not fully represented the stance of the majority of the Constitutional Court.

C. Strengthening the Authority of the Constitutional Court in Deciding Election Result Disputes to Realize Electoral Justice

Amid the debate over the authority of the Constitutional Court to decide disputes over election results, particularly regarding the use of parameters of TSM violations, both in the norms of the law and in the

practice of the Constitutional Court's decisions, there are still unclear parameters that potentially cause new problems and disrupt the principle of legal certainty, including the institutional relationship between the Constitutional Court and other electoral dispute resolution institutions. There are also problems related to the translation of the narrowed phrase "disputes over election results" in Law No. 7 of 2017. The consistency in the use of these phrases is contained in the following Table.⁵⁹

TABLE 3. The tabulation of the phrase "deciding disputes about general election results" in laws and regulations.

No.	Phrase	Legal Basis
1.	Deciding disputes about general election results.	a. Article 24C (1) of 1945 Constitution b. Article 29 (1) letter d of Law No. 48 of 2009 on Judicial Power c. Article 1 point 3, Article 10 (1) letter d, Article 30 letter d, and General Elucidation of the Constitutional Court Law d. Appendix page 37 of Constitutional Court Regulation No. 4 of 2023
2.	Dispute over General Election Results.	a. Title, Eleventh Section, Article 78, Article 79, General Elucidation of Law No. 24 of 2003 <i>jo.</i> Law No. 8 of 2011 b. Title of the Fourth Book and Article 473 (1) of Law No. 7 of 2017 c. Title, Preamble, Title of Appendices I, II, III, IV of Constitutional Court Regulation No. 4 of 2023 <i>jo.</i> Constitutional Court Regulation No. 2 of 2024

⁵⁹ Aan Eko Widiarto, Expert Testimony in the Dispute over the Results of the General Election of the President and Vice President in the Constitutional Court. See Constitutional Court Decision No. 2/PHPU.PRES-XXII/2024, 309-311.

No.	Phrase	Legal Basis
3.	Election result disputes include disputes between the KPU and election participants regarding the determination of the national election results.	Article 473 (1) of Law No. 7 of 2017
4.	Disputes over the determination of the vote results.	a. Article 473 paragraphs (2) and (3) and Article 475 (1) of Law No. 7 of 2017 b. Appendix Pages 35, 37, 44, 51 of Constitutional Court Regulation No. 4 of 2023
5.	Disputes over the final stage of the results of the general election of the President and Vice President.	Appendix Pages 37 and 53 of Constitutional Court Regulation No. 4 of 2023

Sources: primary legal materials, 2025 (edited by authors).

The omission of the word “about” from the phrase “disputes over election results” contained in Article 473 (1) of Law No. 7/2017 is meant to refer to the occurrence of disputes between the KPU and election participants related to “the determination of national vote acquisition results”. Similarly, Article 75 letter a of Law No. 24 of 2003 defines an election result dispute as “an error in the vote counting results announced by the KPU and the correct counting results as defended by the petitioner.”⁶⁰ The deletion of the word “about” basically implies the narrowed meaning of the Constitutional Court’s authority in deciding disputes over election results. Alternatively, at the very least, it will create hesitation among Constitutional Court judges when deciding disputes over election results, despite their role as protectors of democracy and the

⁶⁰ Firdaus et al., “Ruang Lingkup Kompetensi Mahkamah Konsititusi Memutus Perselisihan Hasil Pemilihan Umum,” *Jurnal Konstitusi* 21, no. 2 (June 2024): 319, <https://doi.org/10.31078/jk2129>.

constitution.⁶¹ Based on the structure of the existing regulations, from a legal-political perspective, it seems that the legislators wish to cluster the institutions authorized to resolve election disputes strictly.

Ideally, the Constitutional Court, in exercising its authority to dispute the results, should not only examine and adjudicate disputes over the determination of vote acquisition results, but also assess the results by reviewing alleged violations and irregularities during the electoral process that have a significant impact on vote acquisition and vote count recapitulation. It is because the Constitutional Court is the final forum for reviewing the entire process, applying the specific indicators set out in the Constitution. In practice, the Constitutional Court can overturn the KPU's decision and declare it legally binding, as well as order a re-vote, with a *ratio decidendi* that is not based solely on vote-counting errors but on violations of law and propriety that affect the election results.⁶²

Irregularities in the electoral process can significantly impact the results, thus requiring the Constitutional Court's intervention if supported by evidence that meets legal standards and is of sufficient significance. It does not mean that the Court assumes authority to handle violations in the electoral process; rather, it is limited to assessing and considering the impact of these violations on the results of the KPU's vote count. The main challenge in applying this legal construction lies in balancing the correction of electoral injustices with maintaining of political stability and public confidence in the democratic process.

The Constitutional Court's authority to adjudicate matters that significantly affect election results demonstrates the legal system's capacity to correct irregularities or violations in the electoral process, while emphasizing the importance of transparency and fairness for government legitimacy. Constitutional Court decisions that invalidate

⁶¹ Sodikin Sodikin, "Over The Limit of Authority of The Constitutional Court In Resolving Disputes About The Results of The General Election," *Jurnal IUS Kajian Hukum Dan Keadilan* 10, no. 2 (August 2022): 404, <https://doi.org/10.29303/ius.v10i2.1087>.

⁶² Mochtar, "Guarding Democracy," 49–51; A. Zarkasi et al., "Indonesia's 2024 Election: Constitutional Court Perspectives on Electoral Violations," *Sriwijaya Law Review* 9, no. 2 (July 2025): 376–86, <https://doi.org/10.28946/slrev.v9i2.4584>.

election results, disqualify participants, and/or order a re-vote not only reflect the legal responsibility to maintain electoral integrity but also demonstrate the effectiveness and credibility of the electoral system itself.⁶³ This is because, in addition to realizing substantial justice, it is important to obey formal justice.

In the future, there needs to be a more constructive approach to the Constitutional Court's authority to decide election-related disputes, ensuring it aligns with the goal of electoral justice. Three indicators of electoral justice that must be realized include (a) ensuring that all actions, procedures, and decisions in the administration of elections run in accordance with legal provisions; (b) providing protection and restoration of voting rights; and (c) providing a mechanism for citizens who feel their voting rights have been violated to file objections, follow the trial process, and obtain a decision.⁶⁴ Even so, this study offers a well-developed reconstruction of how electoral justice can be realized in the context of legal issues concerning the Constitutional Court's authority.

The reconstruction effort proposed in this article is a juridical justification of the Constitutional Court's authority to respond to substantial demands for justice and to reinforce constitutional democracy. Some of the reconstructive points are described below.

1. Interpreting Disputes on Election Results

The resolution of administrative violations that have implications for the vote results is often not considered final because it is the subject of litigation before the Constitutional Court.⁶⁵ It is urgent to interpret the dispute over the results with quantitative and qualitative benchmarks. Quantitative benchmarks certainly use the object of vote acquisition that the KPU/KPUD has determined and then juxtaposed with the vote count data from the petitioner's data.⁶⁶ Meanwhile, qualitative benchmarks can occur at all stages of the election.⁶⁷ The qualitative benchmark can refer to the act of "conditioning" to win the

⁶³ Mochtar, "Guarding Democracy," 52–53.

⁶⁴ Orozco-Henríquez et al., "Electoral Justice."

⁶⁵ Firdaus et al., "The Scope of Competence of the Constitutional Court in Deciding Disputes of General Election Results," 328.

⁶⁶ Ibid.

⁶⁷ Ibid., 329.

election results. The forms can vary, ranging from instructions to government officials, the use of public facilities and infrastructure, the use of money politics and dynasties, the appointment of acting regional heads (“*penjabat*”) without going through elections, to other aspects.⁶⁸

This reconstruction does not require an amendment to Article 24C of the 1945 Constitution. Rather, it may be realized through a constitutional interpretation by the Constitutional Court, which should subsequently be codified through revisions to the Election Law and the Regional Election Law in order to provide greater legal certainty and harmonize electoral dispute resolution.

Therefore, the phrase “disputes over election results” should be interpreted as the authority to “*examine and adjudicate disputes between election participants and the KPU regarding the process of obtaining the number of votes and the results of obtaining the number of votes of general election participants nationally.*” Disputes related to the process are caused by violations that have not, cannot, or are not offered to be resolved by the election organizers in the form of: (a) violations that cannot be tolerated; and/or (b) violations committed in TSM, while the dispute is related to the results determined by the KPU/KPUD. By limiting the Court’s jurisdiction to these exceptional circumstances, this interpretation preserves the balance between electoral justice, legal certainty, and the statutory authority of other electoral institutions.⁶⁹

⁶⁸ Ahmad Siboy et al., “Legal Social Justice in Appointment Non-Definitive Regional Heads toward Welfare State,” *Bestuur* 11, no. 1 (August 2023): 144–70, <https://doi.org/10.20961/bestuur.v11i1.71055>; Abustan, “Implementasi Demokrasi Dan Legitimasi Penjabat Kepala Daerah Di Indonesia,” *Indonesia Law Reform Journal* 2, no. 3 (November 2022): 274–87, <https://doi.org/10.22219/ilrej.v2i3.22202>; Putra Perdana Ahmad Saifulloh et al., “Political Dynasties in General Elections According to Human Rights and A Comparison in Four ASEAN Countries,” *Trunojoyo Law Review* 7, no. 1 (January 2025): 123–60, <https://doi.org/10.21107/tlr.v7i1.28492>; Navhat (Nava) Nuraniyah, “Indonesia’s 2024 Presidential Election: Sectarianism Out, Dynasty In, Democracy Tethered,” *Asia Policy* 19, no. 4 (2024): 96–107.

⁶⁹ The proposed reconstruction of the Constitutional Court’s authority is not intended to expand its jurisdiction without limits. Rather, such reinterpretation must remain subject to clear legal parameters and the electoral dispute resolution mechanisms established by law.

2. Formulation of Structured, Systematic, and Massive Violation Standards

It is important to specify the normative parameters of TSM violations in the law to fulfill the principle of legal certainty. Both Law No. 10 of 2016 and Law No. 7 of 2017 only explicitly mention TSM violations as administrative violations under the authority of Bawaslu without elaborating on the indicators, methods of proof, and parameters of “significant influence” on election results, as well as how TSM violations are linked to the authority of the Constitutional Court; both institutions adjudicate TSM violations.

Accordingly, statutory reform should formulate objective parameters for determining TSM violations, including: (i) clear evidence that the violation was committed in a structured, systematic, and massive manner; (ii) proof that the violation substantially affected the integrity or validity of the election results; (iii) a demonstrable causal relationship (*causaal verband*) between the violation and the outcome of the election; and (iv) the absence of an effective remedy through the ordinary electoral dispute resolution mechanisms. These cumulative requirements would ensure that TSM serves as an exceptional constitutional threshold rather than a general ground for judicial intervention.

The 2019 and 2024 Presidential Election Results Dispute cases should serve as a basis for seriously addressing the normative weaknesses in Law No. 7 of 2017, thereby establishing measurable standards for the scope of TSM. With clear definitions, parameter coverage, and other related matters, it will be easier for Bawaslu to prevent administrative violations. Establishing the standards or parameters for TSM violations will have a positive impact in preventing ultra vires actions by both the Constitutional Court and Bawaslu.

Normatively, the provisions of Law No. 7 of 2017 do not recognize events related to violations that affect the acquisition of election results. For example, nepotism, dynastic politics, and the abuse of authority are quite challenging for Bawaslu to deal with due to its limited authority. When this is the case, the role of the Constitutional Court must be optimized to test factors beyond its formal juridical scope.

3. Consolidation of Election and Pilkada Related Regulations

Many Constitutional Court decisions have fundamentally changed the landscape and architectural design of elections and regional elections.⁷⁰ However, this study will only mention two recent decisions that are monumental in nature: Constitutional Court Decision No. 85/PUU-XX/2022 and Constitutional Court Decision No. 135/PUU-XXII/2024. The former concerns the constitutionality of the special-election judicial body, which was finally abolished. The authority to adjudicate is permanently the responsibility of the Constitutional Court.⁷¹ This decision did not appear suddenly, but was the implication of a new legal situation after Constitutional Court Decision No. 55/PUU-XVII/2019, which divided the simultaneous election model. The implications of Constitutional Court Decision No. 85/PUU-XX/2022 have emphasized that there is no longer a regime distinction between elections and local elections.

On the other hand, Constitutional Court Decision No. 135/PUU-XXII/2024 states that the organization of elections is divided into two types: national and local elections. National elections elect the President and Vice President, members of the House of Representatives (“DPR”), and members of the Regional Representative Council (“DPD”), while local elections elect regional heads and members of the Regional House of Representatives (“DPRD”). This court decision affects the design of simultaneous elections in Indonesia, which will take effect in 2029. The *ratio decidendi* also emphasizes the distance between national and local elections, which is 2 to 2.5 years. This decision involves at least three fundamental legal considerations: reducing the workload of election organizers, improving the effectiveness of elections and public participation, and strengthening regional autonomy.

⁷⁰ Some of the monumental decisions can be found at Pan Mohamad Faiz, “Memperkuat Prinsip Pemilu Yang Teratur, Bebas, Dan Adil Melalui Pengujian Konstitusionalitas Undang-Undang,” *Jurnal Konstitusi* 14, no. 3 (2017): 672–700, <https://doi.org/10.31078/jk14310>; Sholahuddin Al-Fatih and Asrul Ibrahim Nur, “Does the Constitutional Court on Local Election Responsive Decisions?,” *Journal of Human Rights, Culture and Legal System* 3, no. 3 (November 2023): 569–96, <https://doi.org/10.53955/jhcls.v3i3.74>.

⁷¹ Al-Fatih and Nur, “Does the Constitutional Court on Local Election Responsive Decisions?,” 575–79.

The implications of the changes to the electoral architecture following the two Constitutional Court decisions above, of course, must be followed by regulatory changes to enable adjustments and further ensure harmonious legal norms. In relation to the authority of the Constitutional Court to decide disputes over results, there is an expansion of authority to hear both general and regional election disputes.⁷² With its permanent authority, the Constitutional Court has greater constitutional legitimacy to ensure that every dispute over election results is resolved fairly in accordance with the relevant regulatory framework.

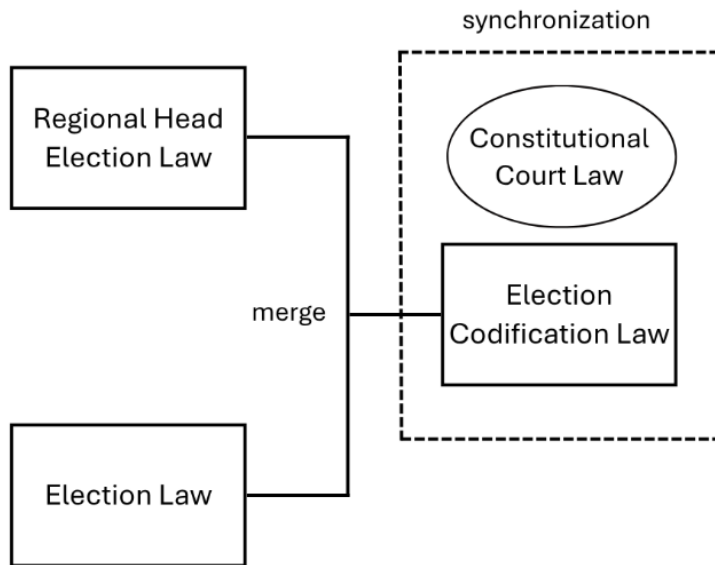
The proposed consolidation is a necessary consequence of the Constitutional Court's restructuring of Indonesia's electoral architecture through Decisions No. 85/PUU-XX/2022 and No. 135/PUU-XXII/2024. Maintaining separate regulatory regimes would likely preserve inconsistencies in the institutional design and procedural framework governing election result disputes.

Therefore, reorganization through consolidation of laws under one roof is necessary.⁷³ This arrangement is made through the consolidation of two laws: the Election Law and the Pilkada Law, and by harmonizing them with the Constitutional Court Law. The consolidation and structuring are essential to establishing a uniform procedural standard for adjudicating disputes over election results, including regional elections, as well as for organizing the authorized institutions, in this case, the Constitutional Court.

⁷² Palguna and Bisariyadi, "The Power of Constitutional Court to Settle Disputes on Local Election Results," 14–15.

⁷³ Firdaus Arifin et al., "Reforming Indonesia's Electoral System: Legal and Policy Considerations," *Jambe Law Journal* 8 (June 2025): 77–80, <https://doi.org/10.22437/home.v8i1.501>.

CHART 1. Overview of regulatory consolidation and synchronization of elections.



Sources: primary legal materials, 2026 (edited by authors).

4. Integration of Election Law Enforcement System

The reconstruction of the Constitutional Court's authority also needs to be directed towards stronger integration with the electoral law enforcement system as a whole. So far, the handling of election violations has been spread across various institutions, including Bawaslu, general courts, state administrative courts, and DKPP, which often run sectorally. This proposed integration does not seek to centralize all election dispute resolution before the Constitutional Court or diminish the statutory authority of those institutions. Rather, each institution should continue to exercise its respective functions. At the same time, the Constitutional Court is the final constitutional adjudicator to assess whether violations established through existing legal mechanisms have materially affected the validity and legitimacy of the election results. Accordingly, the Constitutional Court's role is not to replace the functions of Bawaslu, the general courts, the state administrative courts, or DKPP, but to ensure coherence in the constitutional protection of electoral justice by examining the legal consequences of proven violations

in disputes over election results. It is to prevent any fragmentation of law enforcement that weakens electoral justice.

Then the role of Bawaslu remains important as the front line in handling administrative violations, resolving disputes, and addressing TSM violations. Simultaneously, Bawaslu's authority must also be addressed and strengthened as a quasi-judicial body, particularly in the prevention mechanism, which has been suboptimal and ineffective, given that process violations remain very high.⁷⁴ On the other hand, the Constitutional Court, under Law No. 7 of 2017, is normatively restricted to adjudicating disputes over election results and only exceptionally entering the electoral process domain that affects the results.

Although each institution performs a distinct statutory function, none is expressly mandated to comprehensively assess the causal relationship between proven electoral violations and the validity of election results. The absence of an institution that comprehensively examines the causal relationship between the quality of the electoral process and the legitimacy of the vote results essentially creates a void in the existing legal construction, thereby creating a vacuum in the complete testing of the causal relationship between violations of the electoral process and results, even though the two are an inseparable unity in the principles of constitutional democracy.

The Constitutional Court's jurisdiction remains limited to determining whether, as established by the competent institutions, proven administrative, criminal, or ethical violations, have substantially affected the validity of election results. Such an arrangement maintains the principle of separation of powers, prevents unnecessary expansion of the Court's jurisdiction, and avoids transforming the Constitutional Court into a general election supervisory body.

This integration is important to ensure that the Constitutional Court can comprehensively evaluate the constitutional implications of every administrative, criminal, or ethical violation established through the competent legal mechanism, regarding its impact on the election results. More importantly, the Constitutional Court holds a highly

⁷⁴ Zarkasi et al., "Indonesia's 2024 Election," 386.

strategic position, given that it is the final dispute-resolution mechanism after the KPU determines vote acquisition.

5. Transformation towards Substantive Justice

In the 2024 Presidential Election Results Dispute case, the Constitutional Court began to expand its evidentiary approach by progressively exercising judicial discretion, for example, by summoning state officials to disclose material facts relevant to alleged TSM election violations. The summons was issued with the parties' consent in the trial. In the 2024 Presidential Election case, a Constitutional Court judge summoned four Cabinet Ministers to be questioned about alleged TSM violations involving social assistance funds.⁷⁵ The approach of the Constitutional Court judges confirms that the search for material truth is an important part of realizing electoral justice. It shows that the Constitutional Court is no longer rigidly bound to formal evidence alone. Proof is also not entirely absolute in numerical calculations, but it also assesses the political factors surrounding the implementation of elections.

In this framework, the Constitutional Court does need to adopt a judicial activism approach,⁷⁶ namely the courage of judges to explore the values of substantive justice behind positive legal norms.⁷⁷ The courage of Constitutional Court judges in deciding this case will be effective only if they firmly uphold the Constitution and the principles of an independent and impartial judiciary.⁷⁸ In doing so, it will produce Constitutional Court decisions that reflect material truth and create electoral justice. In the context of the 2024 Presidential Elections, the

⁷⁵ Harian Kompas, "MK Panggil Empat Menteri Untuk Kepentingan Hakim," 2024, <https://www.kompas.id/artikel/mk-panggil-empat-menteri-jokowi>.

⁷⁶ Nur Faisyah, Muchamad Safa'at, and Riana Susmayanti, "Judicial Overreach and the Rise of the Positive Legislator: A Constitutional Analysis of Indonesia's Constitutional Court," *Legal Horizons* 25, no. 2 (June 2025): 20, <https://doi.org/10.54477/LH.25192353.2025.2>, pp.9-23.

⁷⁷ Amiruddin and Ramadani, "Judicial Activism in Regional Head Election Dispute," 60–61.

⁷⁸ Muchamad Ali Safa'at et al., "The Relationship Between the Constitutional Judges' Selection by the House of Representatives and The Position of Judges in Judicial Review Decisions," *Constitutional Review* 10, no. 2 (December 2024): 371–72 and 390–91, <https://doi.org/10.31078/consrev1024>.

dissenting opinions of the three Constitutional Judges (Saldi Isra, Enny Nurbaningsih, and Arief Hidayat) in Decision No. 1/PHPU.PRES-XXII/2024 and Decision No. 2/PHPU.PRES-XXII/2024 indicates a tendency toward very strong judicial activism, as it is based on the trial’s legal facts and on assessing the political policy factors that influence the “results” according to the TSM parameters.

The contrasting approaches adopted by the majority and dissenting justices in the 2024 Presidential Election disputes illustrate this tension, as summarized in table below:

TABLE 4. Comparison of the Majority and Dissenting Opinions in Constitutional Court Decisions No. 1/PHPU.PRES-XXII/2024 and No. 2/PHPU.PRES-XXII/2024.

Assessment Aspect	Majority Opinion (5 Justices) ⁷⁹	Dissenting Opinion (3 Justices) ⁸⁰
Nature of violations	Emphasized quantitative proof and a direct causal relationship between the alleged violation and the national election results.	Emphasized qualitative violations affecting the integrity of the electoral process and constitutional principles.
Politicization of social assistance (“bansos”)	Considered social assistance programs lawful because they had been approved through the State Budget (“APBN”) and found no conclusive evidence that they directly benefited Candidate Pair No. 2.	Considered the timing and distribution of social assistance capable of creating political bias and undermining electoral fairness.
Neutrality of acting regional heads (“ <i>penjabat</i> ”) and state apparatus (“ASN”)	Viewed the alleged violations as sporadic and insufficient to demonstrate a structured, systematic, and massive (“TSM”) pattern.	There is a structured and massive lack of neutrality, where the position of acting regional head is mobilized to facilitate the campaign of certain candidate pairs, including the mobilization of ASN.

⁷⁹ Namely: Suhartoyo, Daniel Yusmic P. Foekh, Guntur Hamzah, Ridwan Mansyur, and Arsul Sani.

⁸⁰ Namely: Saldi Isra, Enny Nurbaningsih, and Arief Hidayat.

Assessment Aspect	Majority Opinion (5 Justices) ⁷⁹	Dissenting Opinion (3 Justices) ⁸⁰
Presidential involvement	Held that allegations concerning presidential conduct fell outside the Constitutional Court’s jurisdiction and lacked sufficient legal proof.	Viewed the alleged abuse of executive power and nepotism as constitutional issues capable of undermining electoral legitimacy.
Standard of proof	Applied a strict evidentiary standard requiring conclusive proof that TSM violations altered vote acquisition.	Applied a more flexible evidentiary approach, allowing the Court to infer constitutional violations from the overall factual circumstances presented at trial.
Outcome	Rejected the petitions and upheld the KPU’s determination of election results.	Favored partial acceptance of the petitions and proposed re-voting in affected regions.

Source: Constitutional Court Decisions No. 1/PHPU.PRES-XXII/2024 and No. 2/PHPU.PRES-XXII/2024 (Edited by Authors).

The comparison demonstrates two different constitutional paradigms in interpreting the Constitutional Court’s authority over election result disputes. The majority adopted a formalistic approach, positioning the Constitutional Court primarily as a court of election results and focusing on quantitative evidence and direct causal proof. Conversely, the dissenting justices viewed the Constitutional Court as the guardian of constitutional democracy and electoral justice, emphasizing that serious qualitative violations affecting the integrity of the electoral process may invalidate election results even where their precise numerical impact cannot be mathematically demonstrated within the limited timeframe of election dispute proceedings. Although this article supports a more substantive conception of electoral justice, such an approach should remain confined to exceptional circumstances and operate within clearly defined constitutional and statutory parameters to preserve legal certainty and avoid judicial overreach, as discussed before.

Conclusion

In relation to elections as the actualization of democracy, Article 24C of the 1945 Constitution authorizes the Constitutional Court to adjudicate disputes concerning general election results. This study demonstrates that the Court's jurisprudence has gradually evolved from an initially dominant quantitative approach toward a mixed approach that also accommodates qualitative considerations in assessing the constitutional validity of the electoral process. Since Decision Number 41/PHPU.D-VI/2008, the Constitutional Court has increasingly recognized that electoral fairness is not only measured by vote tabulation, but also by whether the electoral process is in accordance with constitutional principles of free, fair, and democratic elections..

This development reflects a constitutionally justified form of judicial activism, enabling the Constitutional Court to safeguard electoral integrity where proven violations materially affect election results and existing statutory mechanisms fail to provide an effective constitutional remedy. Nevertheless, such judicial intervention must remain within clearly defined constitutional and statutory limits to preserve legal certainty and the institutional balance of the electoral justice system.

To strengthen the constitutional foundation of the Court's authority, this study proposes five reconstructive models: (1) reinterpreting the concept of election result disputes; (2) establishing objective standards for structured, systematic, and massive ("TSM") violations; (3) consolidating election-related legislation; (4) functionally integrating the electoral law enforcement system; and (5) reinforcing a substantive electoral justice approach. Among these, the reinterpretation of election result disputes and the formulation of objective TSM standards constitute the most immediate priorities because they provide the normative basis for the remaining reforms. Future research may complement this normative analysis by conducting comparative or empirical studies of the implementation of the electoral justice standards developed in this research.

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