

# From Justice to Politics: The Constitutional Court's Role in Structured and Systematic Election Violations

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## Abstract

This research analyzes the judicial implications of the Constitutional Court's rulings on structured, systematic, and massive (TSM) violations in Indonesian elections, and their impact on democratic integrity. Using a socio-legal approach, it combines legal analysis with social science perspectives to examine how the Court interprets and applies TSM principles within a broader socio-political context. The study finds that while the Constitutional Court plays a pivotal role in upholding electoral integrity and safeguarding democratic values, significant challenges remain. Chief among these is the difficulty of proving TSM violations, which are often entangled with powerful political interests. These challenges can weaken public trust, hinder accountability, and contribute to a democratic deficit. The study concludes that more robust judicial mechanisms and clearer evidentiary standards are needed to ensure fair adjudication and strengthen Indonesia's democratic institutions.

**KEYWORDS** *Judicialization of Politics; Constitutional Court; Structured, Systematic, and Massive; Elections.*

## Introduction

General elections—hereinafter referred to as elections—are a concrete manifestation of the principle of popular sovereignty: the notion that state legitimacy originates from the will of the people, who serve as the primary source of political authority.<sup>1</sup> This foundational idea is deeply rooted in classical social contract theories as articulated by Thomas Hobbes, John Locke, and Jean-Jacques Rousseau, who collectively emphasized the necessity of public consent in legitimizing governance.<sup>2</sup> In a democratic system, elections serve not merely as procedural instruments for power transitions, but as vehicles for the articulation of the general will. Through elections, citizens delegate authority to their representatives with the expectation that they will embody and advocate for the public interest. Ideally, elected officials act as the collective mouthpiece of the populace, translating societal demands into legal and policy frameworks. This is consonant with the etymological and normative meaning of democracy—derived from the Greek words *demos* (people) and *kratos* (rule or power)—which positions the people as the central actors in political life.<sup>3</sup>

In the context of Indonesia, the significance of elections is historically and politically profound. Following more than three decades under the authoritarian New Order regime, Indonesia experienced a dramatic political transition with the fall of Suharto in 1998.<sup>4</sup> The Reformasi era that followed marked the beginning of a democratization process characterized by the introduction of direct

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<sup>1</sup> Arief Budiman, *Teori Negara: Negara, Kekuasaan Dan Ideologi* (Jakarta: Gramedia Pustaka Utama, 2002).

<sup>2</sup> Nigel Dodd, Jurgen Habermas, and Stephen K. White, “Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy,” *The British Journal of Sociology* 48, no. 2 (1997), <https://doi.org/10.2307/591763>.

<sup>3</sup> Miriam Budiardjo, *Dasar-Dasar Ilmu Politik* (Jakarta: Gramedia Pustaka Utama, 2003).

<sup>4</sup> Eve Warburton and Edward Aspinall, “Explaining Indonesia’s Democratic Regression: Structure, Agency and Popular Opinion,” *Contemporary Southeast Asia* 41, no. 2 (2019), <https://doi.org/10.1355/cs41-2k>.

elections, decentralization, the proliferation of political parties, and increased civil liberties. The 1999 general elections symbolized a turning point, celebrated as a return to the democratic path.<sup>5</sup> However, the initial optimism has gradually given way to concern. Over the past two decades, Indonesia's democratic progress has encountered substantial challenges.<sup>6</sup> Observers now describe Indonesia's democracy using terms such as "flawed democracy,"<sup>7</sup> "democratic stagnation,"<sup>8</sup> or "democratic regression."<sup>9</sup>

The erosion of democratic quality in Indonesia is driven by multiple structural and institutional factors, including political favoritism,<sup>10</sup> oligarchic consolidation,<sup>11</sup> and illiberal tendencies.<sup>12</sup>

<sup>5</sup> Vedi R Hadiz, "Retrieving the Past for the Future? Indonesia and the New Order Legacy," *Southeast Asian Journal of Social Science* 28, no. 2 (2000), <https://doi.org/10.1163/030382400x00037>.

<sup>6</sup> Read for example in R. William Liddle, "Indonesia's Democratic Past and Future," *Comparative Politics* 24, no. 4 (1992), <https://doi.org/10.2307/422154>; Read for example in D. Y. King, "The 1999 Electoral Reforms in Indonesia: Debate, Design and Implementation," *Southeast Asian Journal of Social Science* 28, no. 2 (2000), <https://doi.org/10.1163/030382400X00064>.

<sup>7</sup> Wasisto Raharjo Jati, "Fenomena Kemunduran Demokrasi Indonesia 2021," *The Habibie Center THC Insights*, no. 27 (2021): pp: 6.

<sup>8</sup> Vedi R. Hadiz, "Indonesia's Year of Democratic Setbacks: Towards a New Phase of Deepening Illiberalism?," *Bulletin of Indonesian Economic Studies* 53, no. 3 (2017), <https://doi.org/10.1080/00074918.2017.1410311>.

<sup>9</sup> Warburton and Aspinall, "Explaining Indonesia's Democratic Regression: Structure, Agency and Popular Opinion."

<sup>10</sup> A condition in which the ruler places himself as a 'savior' for a country that is in decline. Consolidation after political consolidation becomes undeniable, just to fulfill the desire for power and strengthen the political position of the ruler and his cronies. Refer further in Saiful Mujani and R. William Liddle, "Indonesia: Jokowi Sidelines Democracy," *Journal of Democracy*, 2021, <https://doi.org/10.1353/jod.2021.0053>.

<sup>11</sup> Jeffrey A. Winters, *Oligarchy*, 2011, <https://doi.org/10.1017/CBO9780511793806>; Jeffrey A. Winters, "Oligarchy and Democracy in Indonesia," *Indonesia* 2013, no. 96Special Issue (2013), <https://doi.org/10.5728/indonesia.96.0099>; See also Vedi R. Hadiz and Richard Robison, "The Political Economy of Oligarchy and the Reorganization of Power in Indonesia," *Indonesia* 2013, no. 96Special Issue (2013), <https://doi.org/10.5728/indonesia.96..0033>, who argues that the oligarchic grip on Indonesia does not mean that democracy in Indonesia has not undergone any change, but rather that the dominance of oligarchs has caused democracy in Indonesia to regress to previous decades.

One of the most alarming symptoms of this decline is the degradation of electoral integrity.<sup>13</sup> Elections—intended as democratic rituals of renewal—have increasingly become arenas for manipulation, fraud, and consolidation of elite power. Of particular concern are violations categorized as *terstruktur, sistematis, dan masif* (TSM), or structured, systematic, and massive. These violations are not isolated incidents of misconduct but are orchestrated efforts involving state apparatuses, political networks, and financial interests, thereby undermining the fairness and competitiveness of elections.

The Constitutional Court of Indonesia, formed in 2003, plays an important role in handling election disputes, including those involving TSM violations. Through key rulings, the Court has helped define how electoral justice works and has influenced the direction of Indonesia's democracy.<sup>14</sup> However, its growing involvement in politically sensitive election cases has sparked concerns about the judicialization of politics—a situation where courts take on decisions that are deeply political.<sup>15</sup> While courts can help protect democracy from abuse of power and election fraud, their role also raises questions about their independence and fairness. A recent example is the controversial Decision No. 90/PUU-XXI/2023, which many believe was politically influenced. When the law is used to support those in power, democracy can be weakened from within. In such cases, the law becomes both a tool and a disguise for authoritarian control.<sup>16</sup> For this reason, it is important to examine whether the

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<sup>12</sup> Thomas Power, "Jokowi's Authoritarian Turn and Indonesia's Democratic Decline," *Bulletin of Indonesian Economic Studies* 54, no. 3 (2018): 307–38, <https://doi.org/10.1080/00074918.2018.1549918>.

<sup>13</sup> *Ibid*

<sup>14</sup> Read the discourse on the judicialization of politics for example in John Ferejohn, "Judicializing Politics, Politicizing Law," *Law and Contemporary Problems* 65, no. 3 (2002), <https://doi.org/10.2307/1192402>; Martin Shapiro and Alec Stone Sweet, *On Law, Politics, and Judicialization*, 2003, <https://doi.org/10.1093/0199256489.001.0001>.

<sup>15</sup> Daniel Levitsky, Steve Ziblatt, "This Is How Democracies Die," *The Guardian Online*, 2018. bluntly writes that "*democracies may die at the hands not of generals but of elected leaders*".

<sup>16</sup> Thomas Power and Eve Warburton, "The Decline of Indonesian Democracy," in *Democracy in Indonesia: From Stagnation to Regression?*, ed. Thomas

Constitutional Court is helping to defend or undermine democracy in Indonesia.

Against this backdrop, this study poses a central research question: *What are the implications of the Constitutional Court's judicialization of politics in cases of structured, systematic, and massive (TSM) electoral violations for the future of democracy in Indonesia?* By addressing this question, the study seeks to illuminate the complex interplay between law, power, and democracy in contemporary Indonesian electoral politics.

Based on the exploration mentioned above, this article addresses two central issues: the judicialization of politics and indications of unhealthy political practices that exploit certain internal powers, contributing to the regression of democracy in Indonesia. The concept of structured, systematic, and massive (TSM) violations is not new;<sup>17</sup> However, there remains a lack of clear indicators to delineate the Constitutional Court's jurisdiction in adjudicating such cases.<sup>18</sup> The absence of precise boundaries regarding the Court's authority in resolving political disputes has created its own legal and institutional complexities.

This paper focuses particularly on electoral law and the evidentiary challenges of proving TSM violations. It examines the phenomenon of judicialization as a strategic arena for political contestation, offering a critical legal analysis and comprehensive discussion of the practical implications of the Constitutional Court decisions in election-related disputes. The article argues that the growing trend of judicialization in Indonesian electoral politics

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Power and Eve Warburton, Books and Monographs (ISEAS–Yusof Ishak Institute, 2020), 1–20; Power, “Jokowi’s Authoritarian Turn and Indonesia’s Democratic Decline.”

<sup>17</sup> Ayib Rosidin and Asri Sarif, “Problematika Penyelesaian Sengketa Proses Pemilihan Umum Presiden Republik Indonesia Tahun 2024 Di Mahkamah Konstitusi Republik Indonesia,” *Halu Oleo Law Review* 9, no. 1 (2025): 27–41.

<sup>18</sup> See for instance, Geofani Miltthree Saragih, Mirza Nasution, and Eka N A M Sihombing, “Judicial Review Oleh Mahkamah Konstitusi: Judicial Activism vs. Judicial Restraint Dalam Perspektif Kebebasan Kehakiman: Judicial Review by the Constitutional Court: Judicial Activism vs. Judicial Restraint in the Perspective of Judicial Freedom,” *Jurnal Konstitusi* 22, no. 1 (2025): 39–65.

reveals an increasing reliance on judges and courts to resolve fundamentally political and public policy issues—especially in the lead-up to elections.

## Methodology

This research adopts a socio-legal approach, combining legal analysis with social science perspectives to examine how law operates within society. Rather than treating law as a closed system of rules, this method sees law as shaped by political, economic, and cultural forces. It allows for a deeper understanding of how legal institutions function—not just in applying the law, but also in reflecting broader power dynamics.<sup>19</sup> While this research critically engages with the law, it does not disregard the authority of formal legal norms.<sup>20</sup> Laws are treated as socially and politically constructed, open to interpretation, and sometimes contested. As Irianto emphasizes, socio-legal studies still engage with legal texts, but do so critically—questioning their implications and the contexts in which they are applied.<sup>21</sup>

The legal materials analyzed include Law No. 7 of 2017 on General Elections, Law No. 1 of 2015, Law No. 6 of 2020, and Bawaslu Regulation No. 9 of 2020. Two key issues are addressed: (1) how Indonesian law regulates structured, systematic, and massive (TSM) electoral violations, and (2) how the Constitutional Court

<sup>19</sup> Harry W Jones, “Denver Law Review Law and the Behavioral Sciences : The Case for Partnership Law and the Behavioral Sciences : The Case for Partnership” 40, no. 5 (1963); Sulistyowati Irianto, “Enriching Legal Studies with Socio-Legal Research,” in *Advancing Rule of Law in a Global Context*, 2020, <https://doi.org/10.1201/9780429449031-25>; *Advancing Rule of Law in a Global Context*, *Advancing Rule of Law in a Global Context*, 2020, <https://doi.org/10.1201/9780429449031>.

<sup>20</sup> Reza Banakar, *Normativity in Legal Sociology: Methodological Reflections on Law and Regulation in Late Modernity*, *Normativity in Legal Sociology: Methodological Reflections on Law and Regulation in Late Modernity*, 2015, <https://doi.org/10.1007/978-3-319-09650-6>; Sapto Hermawan and Febrian Indar Surya Kusuma, “Normativity In Legal Sociology: Methodological Reflection on Law and Regulation in Late Modernity,” *Yustisia Jurnal Hukum* 11, no. 1 (2022), <https://doi.org/10.20961/yustisia.v11i1.60982>.

<sup>21</sup> Sulistyowati Irianto, *Kajian Sosio-Legal, Seri Unsur-Unsur Penyusun Bangunan Negara Hukum*, 2012.

interprets and applies these rules in election dispute cases. This study also examines Constitutional Court Decision No. 90/PUU-XXI/2023 and MKMK Decision No. 2/MKMK/L/11/2023, both of which reveal how the judiciary interacts with political processes. These decisions are interconnected and reflect tensions between legal reasoning and political interests.

The socio-legal approach is particularly apt for interrogating the judicialization of politics, a phenomenon wherein courts become arenas for resolving fundamentally political questions. The involvement of the Constitutional Court in election disputes—especially those involving TSM violations—illustrates how judicial decisions are often imbued with political significance. This research thus seeks to move beyond the surface of legal reasoning to reveal how such decisions may reflect deeper ideological currents, elite interests, or institutional constraints. Far from being neutral arbiters, courts may function as agents of both democratic preservation and erosion.

In this way, the socio-legal method serves as both a diagnostic and critical tool. It not only aids in understanding how legal norms are operationalized but also assesses whether legal institutions reinforce or undermine democratic values. By situating law within its socio-political terrain, this methodology allows for a nuanced examination of how structured, systematic, and massive violations are adjudicated—not merely as breaches of procedure, but as symptoms of a broader democratic malaise.<sup>22</sup>

## Rule of Law and Democracy

The concept of the rule of law has deep philosophical roots that can

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<sup>22</sup> Albert H.Y. Chen and Andrew Harding, *Constitutional Courts In Asia:: A Comparative Perspective*, *Constitutional Courts in Asia: A Comparative Perspective*, 2018, <https://doi.org/10.1017/9781108163903>; Chien-Chih Lin, "The Impact of Constitutional Courts in Asia," in *Oxford Research Encyclopedia of Politics*, 2022, <https://doi.org/10.1093/acrefore/9780190228637.013.1993>; Simon Butt, "Indonesia's Constitutional Court and Indonesia's Electoral Systems," in *Constitutional Courts in Asia: A Comparative Perspective*, 2018, <https://doi.org/10.1017/9781108163903.010>.

be traced back to classical antiquity. Philosophers such as Plato and Aristotle conceived the rule of law not merely as a legal doctrine but as a normative foundation for just governance. In their conception, the rule of law embodies several fundamental ideals: the pursuit of truth (*Idee der Wahrheit*), morality (*Idee der Sittlichkeit*), beauty (*Idee der Schönheit*), and justice (*Idee der Gerechtigkeit*).<sup>23</sup> These ideals form the metaphysical basis of law's role in shaping an orderly and ethical society.

In modern legal thought, the notion of the rule of law has evolved through distinct traditions.<sup>24</sup> In civil law systems, the term *rechtsstaat*—literally a “state governed by law”—emphasizes legal certainty, constitutionalism, and the limitation of state power. In contrast, common law traditions, particularly in Anglo-Saxon contexts, invoke the term rule of law to denote government constrained by law and the primacy of legal procedure. Despite their terminological and historical differences, both concepts share a foundational commitment: that law stands above arbitrary power and that the state must operate within a legal framework.

Indonesia's commitment to the rule of law is explicitly enshrined in Article 1(3) of the 1945 Constitution (UUD NRI 1945), which affirms that “Indonesia is a state based on law (*negara hukum*).” Although the Constitution does not explicitly refer to *rechtsstaat*, historical legal development and scholarly consensus confirm that Indonesia adopted the *rechtsstaat* model. According to Jimly Asshiddiqie, this model of the rule of law in Indonesia entails four key components: (i) sovereignty of the people, (ii) government by law, (iii) protection of fundamental rights, and (iv) separation of powers. Thus, Indonesia's *negara hukum* concept aligns closely with

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<sup>23</sup> Trevor R S Allan, *Constitutional Justice: A Liberal Theory of the Rule of Law* (OUP Oxford, 2003); David Dyzenhaus and Malcolm Thorburn, *Philosophical Foundations of Constitutional Law* (Oxford University Press, 2016).

<sup>24</sup> Brian Z. Tamanaha, *On the Rule of Law: History, Politics, Theory, On the Rule of Law: History, Politics, Theory*, 2004, 112, <https://doi.org/10.1017/CBO9780511812378>; Pietro Costa, “The Rule of Law: A Historical Introduction,” in *Law and Philosophy Library*, vol. 80, 2007, [https://doi.org/10.1007/978-1-4020-5745-8\\_2](https://doi.org/10.1007/978-1-4020-5745-8_2); Pietro Costa and Danilo Zolo, “The Rule of Law History, Theory and Criticism,” in *Law and Philosophy Library*, vol. 80, 2007.



the modern principle of constitutional democracy, wherein both democratic participation and constitutional limitations coexist.<sup>25</sup>

Democracy, as one of the internal elements of the rule of law, is grounded in the idea of popular sovereignty. It implies that political authority derives from the people, who delegate power through legitimate, transparent mechanisms such as elections. Classical thinkers like John Locke distinguished among legislative, executive, and federative powers, while Montesquieu advanced this further by articulating the doctrine of separation of powers—placing legislative, executive, and judicial authority in distinct and autonomous institutions to prevent concentration and abuse of power.<sup>26</sup> These ideas underpin Indonesia's constitutional structure, as reflected in Articles 4, 20, and 24 of the UUD 1945, which respectively govern executive, legislative, and judicial powers.

Although some scholars argue that there is a tension between the rule of law, which emphasizes legal supremacy, and democracy, which emphasizes the will of the people, this dichotomy is not absolute.<sup>27</sup> Rather, they are complementary and mutually reinforcing when integrated under the framework of democratic constitutionalism. This synthesis acknowledges that while democracy enables participation, the rule of law ensures that such participation operates within fair and just legal boundaries. In other words, democracy must be legal, and law must be democratic.

A democratic rule of law system is one where governmental authority is exercised in accordance with fair, clear, and predictable laws, and where the participation of citizens is central to the political process. It ensures not only formal compliance with legal norms but

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<sup>25</sup> Jimly Asshiddiqie, *Konstitusi Dan Konstitusionalisme Indonesia* (Semarang: Sinar Grafika, 2021); Jimly Asshiddiqie, "Pengantar Ilmu Hukum Tata Negara," *Jurnal Hukum Dan Peradilan* 1, no. 3 (2014).

<sup>26</sup> Bedri Gencer, "Sovereignty and the Separation of Powers in John Locke," *European Legacy*, 2010, <https://doi.org/10.1080/10848771003783611>; Lee Ward, "Montesquieu on Federalism and Anglo-Gothic Constitutionalism," *Publius: The Journal of Federalism* 37, no. 4 (2007), <https://doi.org/10.1093/publius/pjm018>.

<sup>27</sup> Margaret Jane Radin, "Reconsidering the Rule of Law," in *The Rule of Law and the Separation of Powers*, 2017, <https://doi.org/10.4324/9781315085302-2>.

also substantive guarantees—including respect for human rights (Article 28 of the UUD 1945), freedom of expression (Article 28E(3)), and access to justice. The independence of the judiciary, as stipulated in Article 24(1), serves as a critical safeguard, ensuring that the state remains accountable and that its actions are subject to review.

Nonetheless, one must acknowledge counterarguments. Critics may assert that excessive judicial intervention—particularly in electoral or political matters—can distort democratic outcomes and overstep institutional boundaries.<sup>28</sup> This critique is often directed at the judicialization of politics, where courts increasingly resolve inherently political disputes. However, this concern can be rebutted by emphasizing the judiciary's constitutional mandate to uphold the Constitution (Article 24C), especially in contexts where political actors manipulate legal procedures for undemocratic ends. The judiciary, far from being an antagonist to democracy, becomes its last line of defense when other institutions fail to preserve constitutional values.

At its core, law without democracy may become repressive and elitist, while democracy without the rule of law risks devolving into mob rule or chaos.<sup>29</sup> A balanced relationship between these two principles is essential. This is where the checks and balances system—institutionalized through separation of powers—ensures that each branch of government holds the others accountable. In Indonesia, this is operationalized through constitutional oversight, judicial review, and a multiparty legislative system, all of which are designed to prevent authoritarian consolidation and protect democratic legitimacy. In conclusion, the Indonesian legal system is built upon the normative synthesis of democracy and the rule of law.

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<sup>28</sup> Rosalind Dixon and David Landau, *Abusive Constitutional Borrowing: Legal Globalization and the Subversion of Liberal Democracy*, *Abusive Constitutional Borrowing: Legal Globalization and the Subversion of Liberal Democracy*, 2021, <https://doi.org/10.1093/oso/9780192893765.001.0001>; Mila Versteeg, "Abusive Constitutional Borrowing: Legal Globalization and the Subversion of Liberal Democracy," *The American Journal of Comparative Law* 71, no. 2 (2023), <https://doi.org/10.1093/ajcl/avad027>.

<sup>29</sup> Ryan D. Doerfler and Samuel Moyn, "Democratizing the Supreme Court," *California Law Review*, 2021, <https://doi.org/10.15779/Z38TX3571X>.

Upholding this equilibrium is critical not only to maintaining constitutional order but also to ensuring that the state remains committed to justice, human dignity, and the collective will of its people.

## Ballots Betrayed: Unmasking Electoral Violations and Democratic Decline in Indonesia

A country that claims to be a democracy must, at the very least, conduct free, fair, and regular elections.<sup>30</sup> Legally, elections are a concrete expression of popular sovereignty—the foundational principle of democratic governance—according to which ultimate authority resides with the people.<sup>31</sup> This principle demands that major political decisions concerning government, public policy, and the future direction of the state must reflect the people's will, expressed through democratic processes, most notably elections. In this sense, the government functions merely as a delegate of the people, entrusted to exercise authority in accordance with the mandate received from voters. Popular sovereignty also encompasses the broader rights of citizens to participate actively in political life, including the rights to vote, assemble, express dissent, and engage in political discourse. These mechanisms ensure governmental legitimacy, anchored in the consent of the governed, and serve to uphold the public interest and protect fundamental rights.

Elections serve several critical functions within democratic societies. First, they provide a structured mechanism for choosing political leaders, particularly as the size and complexity of modern states make direct citizen involvement in all decision-making impractical. Electoral systems serve to translate the preferences of the electorate into representative mandates by allocating parliamentary or executive power to competing political parties and

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<sup>30</sup> Franz Magnis Suseno, *Mencari Sosok Demokrasi: Sebuah Telaah Filosofis* (Jakarta: Gramedia Pustaka Utama, 1997).

<sup>31</sup> Budiman, *Teori Negara: Negara, Kekuasaan Dan Ideologi*.

candidates. Second, elections enable citizens to hold their leaders accountable through regular cycles of political evaluation. Third, elections serve as instruments for shaping political discourse and maintaining legitimacy, compelling political actors to respond to public demands and formulate inclusive policy agendas. As such, elections perform both bottom-up (empowering voters) and top-down (structuring elite control) functions. While bottom-up processes position elections as tools for accountability and responsiveness, the top-down perspective sees them as instruments through which political elites manage consent and stabilise governance.<sup>32</sup>

In Indonesia, the close relationship between elections and democracy is firmly established. Elections are the primary means by which democratic principles are implemented and the people's sovereignty realised. They offer citizens the opportunity to determine who will wield legislative, executive, and—indirectly—judicial power. Through electoral participation, the public legitimises political authority, reinforcing the representative character of the state. Free, fair, and transparent elections are thus essential to a functioning democracy; they ensure that governmental power is exercised in accordance with public consent and democratic norms such as accountability, transparency, and respect for civil liberties. Elections also facilitate the peaceful transfer of power, allowing governments to be replaced when they fail to meet the electorate's expectations.<sup>33</sup> When such processes function effectively, they foster trust in political institutions and help stabilise society.

However, while elections are designed to promote democracy, their integrity can be compromised by various forms of malpractice.

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<sup>32</sup> D.M Farrell, *Comparing Electoral Systems* (Maylands: Prentice Hall, 1997); A Lijphart, *Electoral Systems and Party Systems* (Oxford: Oxford University Press, 1994), <https://doi.org/10.1093/acprof:oso/9780198273479.001.0001>.

<sup>33</sup> Samuel H. Barnes, "The Contribution of Democracy to Rebuilding Postconflict Societies," *American Journal of International Law* 95, no. 1 (2001), <https://doi.org/10.2307/2642039>; Benjamin Reilly, "Elections in Post-Conflict Scenarios: Constraints and Dangers," *International Peacekeeping* 9, no. 2 (2002), <https://doi.org/10.1080/714002729>.

In Indonesia, electoral integrity is frequently challenged by violations such as vote-buying, electoral fraud, intimidation, and partisan interference by state institutions. These practices undermine the principle of popular sovereignty, distort electoral outcomes, and erode democratic legitimacy. Political theorists such as Samuel Huntington viewed elections as vehicles for dismantling authoritarian regimes and ushering in democratic governance.<sup>34</sup> Yet, as Winters argues, democratisation in many contexts—including Indonesia—remains vulnerable to elite capture and political manipulation.<sup>35</sup> In 2017, Indonesia was labelled the “worst performing democracy” due to increasing political clientelism and elite dominance.<sup>36</sup> Leaders have sometimes styled themselves as populist “saviours,” while in practice undermining democratic consolidation to entrench their power. Scholars such as Mujani and Liddle have identified state actors, including President Joko Widodo (Jokowi), as contributing to democratic backsliding through the centralisation of authority and the marginalisation of opposition voices.<sup>37</sup>

Defective elections have a direct and detrimental effect on the quality of Indonesia’s democracy. When elections lack fairness, transparency, and freedom, they cease to function as a true reflection of the people’s will. Practices such as systematic fraud, vote manipulation, and voter intimidation compromise the legitimacy of elected officials.<sup>38</sup> Consequently, public confidence in democratic institutions declines, potentially destabilising the political order. Moreover, without credible elections, citizens lose a key instrument for holding governments accountable.<sup>39</sup> This opens

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<sup>34</sup> Andrew J. Pierre and Samuel P. Huntington, “The Third Wave: Democratization in the Late Twentieth Century,” *Foreign Affairs* 71, no. 2 (1992), <https://doi.org/10.2307/20045138>.

<sup>35</sup> Winters, “Oligarchy and Democracy in Indonesia.”

<sup>36</sup> The Economist, “Democracy Index 2017 Free Speech under Attack,” *The Economist, Intelligence Unit*, 2017, 82.

<sup>37</sup> Mujani and Liddle, “Indonesia: Jokowi Sidelines Democracy.”

<sup>38</sup> Marcus Mietzner, “Indonesia and the Pitfalls of Low-Quality Democracy: A Case Study of the Gubernatorial Elections in North Sulawesi,” in *Democratization in Post-Suharto Indonesia*, 2008, pp: 123, <https://doi.org/10.4324/9780203934760>.

<sup>39</sup> Edward Aspinall and Marcus Mietzner, “Problems of Democratisation in

the door to corruption, abuse of power, and human rights violations—contrary to the core values of democracy. In Indonesia, flawed elections have already contributed to deteriorating governance quality, growing public discontent, and widespread scepticism toward the democratic process itself.<sup>40</sup>

A particularly grave threat to electoral integrity in Indonesia is the occurrence of violations deemed TSM. Legally recognised under Indonesian electoral law, TSM violations are defined in Article 1(29) of Bawaslu Regulation No. 8/2018 as breaches of electoral rules or procedures that are planned, organised, and executed in a way that significantly affects electoral outcomes. Such violations may include vote-buying, abuse of state resources, politicisation of the bureaucracy, electoral fraud, or non-neutrality of election officials. It is significant to note that the legal recognition of TSM violations originated not from legislative enactment, but from judicial innovation. The Constitutional Court first established the TSM doctrine in Decision No. 41/PHPU.D-VI/2008 concerning the 2008 East Java regional election.<sup>41</sup> The Court acknowledged that certain electoral violations, though not explicitly regulated, could nonetheless fatally compromise electoral legitimacy if they met the threshold of being structured, systematic, and massive. This jurisprudential development was later codified in Article 135A(1) of Law No. 7 of 2017 on General Elections.

Despite its formal legal status, ambiguity remains regarding the precise criteria for TSM violations. Scholars proposed that TSM violations typically involve: (i) manipulation of candidacy requirements, (ii) money politics, (iii) bureaucratic politicisation, (iv) negligence of electoral officials, (v) vote-rigging, (vi) intimidation,

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Indonesia: An Overview," *Problems of Democratisation in Indonesia: Elections, Institutions and Society*, 2010, <https://doi.org/10.1355/9789814279918-006>.

<sup>40</sup> Edward Aspinall and Marcus Mietzner, "Indonesia's Democratic Paradox: Competitive Elections amidst Rising Illiberalism," *Bulletin of Indonesian Economic Studies* 55, no. 3 (2019), <https://doi.org/10.1080/00074918.2019.1690412>; Warburton and Aspinall, "Explaining Indonesia's Democratic Regression: Structure, Agency and Popular Opinion."

<sup>41</sup> R Siti Zuhro, "Demokrasi Dan Pemilu Presiden 2019," *Jurnal Penelitian Politik* 16, no. 1 (2019), <https://doi.org/10.14203/jpp.v16i1.782>.

and (vii) bias among election administrators. According to this framework, structured violations involve collusion by state or electoral officials acting collectively rather than individually; systematic violations entail premeditated and coordinated schemes; and massive violations are those whose consequences are broad, widespread, and not isolated.

The implications of TSM violations are profound. Because they involve institutional actors and large-scale planning, such violations are not mere technical irregularities but deliberate strategies to subvert the democratic process.<sup>42</sup> For example, structured violations often implicate government officials or civil servants abusing their positions to favour certain candidates. Systematic violations may include manipulation of voter registration databases, misuse of public funds, or biased media coverage, all designed to skew electoral outcomes. The massive nature of these violations amplifies their consequences, often rendering the results of an election unrepresentative of the actual will of the electorate.<sup>43</sup>

The impact of TSM violations extends beyond electoral results. They erode the foundational trust that underpins democratic governance. When citizens perceive elections as manipulated or fraudulent, political apathy may follow, leading to reduced civic engagement and declining voter turnout.<sup>44</sup> TSM practices can also intensify political polarisation and sow social discord, ultimately threatening the stability of democratic institutions. For these reasons, ensuring the integrity of the electoral process is not merely a procedural concern, but a constitutional imperative to preserve popular sovereignty and democratic resilience in Indonesia.

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<sup>42</sup> Eleanor Hill et al., "Explaining Electoral Fraud in an Advanced Democracy: Fraud Vulnerabilities, Opportunities and Facilitating Mechanisms in British Elections," *British Journal of Politics and International Relations* 19, no. 4 (2017), <https://doi.org/10.1177/1369148117715222>.

<sup>43</sup> Daniel Ziblatt, "Shaping Democratic Practice and the Causes of Electoral Fraud: The Case of Nineteenth-Century Germany," *American Political Science Review* 103, no. 1 (2009), <https://doi.org/10.1017/S0003055409090042>.

<sup>44</sup> Stephen Dawson, "Electoral Fraud and the Paradox of Political Competition," *Journal of Elections, Public Opinion and Parties* 32, no. 4 (2022), <https://doi.org/10.1080/17457289.2020.1740716>.

## The Legal Limits of Electoral Reform: The Indonesian Court's Narrow View of TSM Violations

The concept of TSM electoral violations has become a cornerstone of the Indonesian Constitutional Court's decisions, but it did not originate from the legislature. Rather, it emerged as a judicial construct, developed by the Constitutional Court as a response to electoral disputes. The Court's role in adjudicating disputes regarding the results of general elections is grounded in Article 10 paragraph (1) letter (d) of Law Number 24 of 2003 concerning the Constitutional Court, which grants it the authority to review electoral outcomes. This legal framework positions the Constitutional Court as the ultimate arbiter responsible for ensuring that elections conform to Indonesia's constitutional and democratic principles.

The importance of this role was further emphasized by the amendments introduced in Law Number 22 of 2007 on the Administration of General Elections, which shifted the jurisdiction over electoral disputes from the Supreme Court to the Constitutional Court. This shift marks a significant evolution in Indonesia's electoral justice system, underscoring the centrality of the Constitutional Court in shaping the integrity of electoral processes, particularly regional head elections (*pilkada*). As a result, the Court became responsible not only for overseeing election outcomes but also for establishing the legal standards by which such outcomes are evaluated. It is within this framework that the Constitutional Court developed the TSM concept, responding to concerns about systemic and deeply embedded electoral manipulation that goes beyond isolated incidents of fraud.

The first clear articulation of TSM violations came in Constitutional Court Decision No. 41/PHPU.D-VI/2008, which concerned the East Java Governor Election. In this case, the petitioners alleged that the election was tainted by TSM violations, specifically pointing to the involvement of village officials and election organizers in manipulating the electoral process. The Court



ruled that the violations were not incidental but constituted a deliberate and organized effort to skew the election outcome. This decision marked a pivotal moment in the development of the TSM framework, with the Court establishing the principle that electoral violations should not be viewed as isolated incidents but as part of a broader, systematic effort to undermine democratic principles. The decision set a precedent for future cases, where the Constitutional Court would begin to conceptualize violations through the lens of their structural, systematic, and massive nature.

Over time, the Court's interpretation of TSM violations evolved. In subsequent decisions such as No. 209-210/PHPU.D-VIII/2010 (South Tangerang) and No. 144/PHPU.D-VIII/2010 (Manado), the Constitutional Court reiterated its commitment to safeguarding electoral integrity, but with a more rigid and formalistic approach. These cases saw the Court grappling with instances of money politics, a practice where electoral candidates or their supporters use financial resources to influence voters. The Constitutional Court distinguished between isolated incidents of vote-buying and TSM money politics, establishing that only when such practices could be shown to be systematic and widespread could they justify the annulment of election results. This distinction marked a shift toward a more technical interpretation, one that focused on proving a direct causal link between the violations and the final vote tally.

Despite the Court's increasing reliance on procedural technicalities, its decisions also provided insight into the structural dynamics of electoral manipulation. In Decision No. 166/PHPU.D-VIII/2010 concerning the Tanjung Balai Regency Election, the MK identified several key indicators of TSM violations. These included the coordinated use of political money to influence voters, the involvement of multiple actors in a hierarchical structure, and the active participation of government officials in orchestrating the violations. However, the Court did not find sufficient evidence to conclude that the violations met the TSM threshold, reinforcing the principle that only violations that satisfy all three criteria—structured, systematic, and massive—can invalidate election results. This decision underscored the Court's growing emphasis on the formal

requirements for proving TSM violations, which increasingly limited the scope of legal challenge to electoral results.

In later decisions such as No. 190/PHPU.D-VIII/2010 (Pandeglang) and No. 144/PHPU.D-VIII/2010 (Manado), the Court continued to refine its approach to TSM violations. While acknowledging the involvement of high-ranking officials and organized efforts to manipulate the election outcome, the Constitutional Court concluded that the violations did not meet the legal threshold for TSM. In these cases, the Court focused on the quantitative impact of the violations—specifically, whether they materially affected the final vote tally. This approach, while seemingly grounded in a desire for fairness, reflected a narrowing of the Court’s view of electoral integrity, one that prioritized technical legal reasoning over the broader political implications of electoral manipulation.

The Court’s insistence on a strict causal link between violations and electoral outcomes has significant implications for the way TSM violations are understood. By focusing on proving the numerical impact of violations, the Constitutional Court often overlooks the broader, structural aspects of electoral manipulation. For instance, the Court has been reluctant to engage with issues such as the abuse of incumbency, the use of state resources for electoral gain, or the politicization of public services. These factors, which are deeply embedded in the political and institutional fabric of Indonesia, are often left unaddressed in the Constitutional Court’s decisions. This narrow focus on quantifiable electoral outcomes effectively obscures the systemic nature of electoral manipulation, reducing it to a technical issue of vote counting rather than a reflection of broader political injustices.

Moreover, the Court’s jurisprudence on TSM violations reflects a broader tendency toward the juridification of politics.<sup>45</sup> By framing electoral disputes in terms of legal neutrality and procedural

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<sup>45</sup> Daniel Loick, “Juridification and Politics: From the Dilemma of Juridification to the Paradoxes of Rights,” *Philosophy & Social Criticism* 40, no. 8 (2014): 757–78; Mariano Croce, “Juridification as Politics: An Institutional View,” *Philosophy & Social Criticism* 47, no. 9 (2021): 1025–42.

fairness, the Constitutional Court often legitimizes the existing political and power structures. This phenomenon, described by scholars such as Sieder, highlights how courts, in their role as neutral arbiters, can inadvertently reinforce the status quo by framing political conflicts as technical legal matters.<sup>46</sup> In the context of Indonesia's electoral system, this means that deeply political issues, such as the manipulation of the media, the use of state-sponsored social assistance (*bansos*) as a tool for electoral gain, or the exploitation of bureaucratic power, are treated as non-issues unless they can be conclusively linked to vote totals.<sup>47</sup>

The Court's formalist approach to TSM violations is further compounded by its refusal to engage with the political and ideological dimensions of electoral fraud.<sup>48</sup> Rather than analyzing the broader power dynamics that enable such manipulation, the Constitutional Court tends to focus on the technical details of electoral procedure. This has led to a legal system that often treats structural injustice as a neutral, incidental occurrence, thereby sanitizing the political nature of electoral manipulation. In this regard, the Court's jurisprudence on TSM becomes a tool for stabilizing the existing political order, rather than challenging it. By focusing on the mechanics of election results, the Constitutional Court obscures the broader political context in which electoral manipulation takes place.

This narrowing of the TSM concept is part of a broader ideological project that seeks to maintain political stability and market confidence at the expense of democratic dissent. The refusal to interpret TSM violations through a structural lens

<sup>46</sup> Rachel Sieder, "The Juridification of Politics," 2020; Marie Claire Foblets et al., *The Oxford Handbook of Law and Anthropology*, *The Oxford Handbook of Law and Anthropology*, 2020, <https://doi.org/10.1093/oxfordhb/9780198840534.001.0001>.

<sup>47</sup> Edward Aspinall, "Elections and the Normalization of Politics in Indonesia," *South East Asia Research* 13, no. 2 (2005), <https://doi.org/10.5367/0000000054604515>.

<sup>48</sup> Ran Hirschl, "The Judicialization of Mega-Politics and the Rise of Political Courts," *Annual Review of Political Science* 11 (2008), <https://doi.org/10.1146/annurev.polisci.11.053006.183906>; Bjoern Dressel, *Courts and Politics in Southeast Asia*, *Courts and Politics in Southeast Asia*, 2024, <https://doi.org/10.1017/9781108770088>.

effectively neutralizes challenges to the entrenched power structures that dominate Indonesia's political landscape. This constitutes a "misframing" of justice—whereby the legal system excludes from consideration the very conditions under which injustice is perpetuated.<sup>49</sup> By refusing to address the ways in which state power and political elites manipulate the electoral process, the Constitutional Court contributes to a broader project of legal containment, where radical democratic claims are rendered legally unintelligible.

In conclusion, the Indonesian Constitutional Court's jurisprudence on TSM violations has played a significant role in shaping the legal boundaries of electoral integrity in Indonesia. While the Court's decisions have made important contributions to the legal understanding of electoral fraud, they have also narrowed the scope of electoral justice, reducing it to a technical and procedural issue. This formalist approach has led to a depoliticization of electoral disputes, in which the broader systemic factors that contribute to electoral manipulation are left unaddressed. The Court's insistence on proving a direct causal link between violations and electoral outcomes ultimately serves to reinforce the political status quo, preventing meaningful challenges to the entrenched power structures that shape Indonesia's electoral system.

## **Beyond the Tally: The Need for a Holistic Approach to Electoral Violations in Indonesia**

To critically analyze efforts to establish a democratic rule of law in Indonesia, it is essential to situate the discussion within the historical and institutional frameworks that have shaped the country's legal and political evolution. While the concept of a democratic rule of law is not new to Indonesia, its practical implementation has evolved through legal interpretations and

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<sup>49</sup> Nancy Fraser, "Re-Framing Justice in a Globalizing World," in *(Mis)Recognition Social Inequality and Social Justice: Nancy Fraser and Pierre Bourdieu*, 2007, <https://doi.org/10.4324/9780203932667>.

judicial decisions, particularly those of the Constitutional Court. The founding fathers of Indonesia outlined a democratic state grounded in the rule of law, as reflected in the debates at the BPUPK<sup>50</sup> and PPKI<sup>51</sup>, where the ideological foundations of democracy were laid. However, it was not until the *Reformasi* movement in 1998 that Indonesia was forced to confront the real challenge of revitalizing democracy and reinforcing the constitutional commitment to the sovereignty of the people, thus necessitating a recalibration of the democratic process in the post-authoritarian era.<sup>52</sup>

A democratic rule of law implies that power must be exercised within the parameters of both democratic principles and legal norms.<sup>53</sup> This necessitates that no individual, including state officials, is above the law. The rule of law ensures that democratic processes cannot be reduced to mere political competition for power, but must be conducted within a framework where decisions are subject to the scrutiny of law.<sup>54</sup> Furthermore, a strong democratic system ensures a clear separation of powers among the executive, legislative, and judicial branches, preventing any one branch from consolidating power unchecked.<sup>55</sup> This system also

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<sup>50</sup> BPUPK (*Badan Penyelidik Usaha-Usaha Kemerdekaan*—Investigating Committee for Preparatory Work for Independence) was a body established by the Japanese government in March 1945 to prepare for Indonesian independence by drafting a constitution and discussing the foundation of the future state.

<sup>51</sup> PPKI (*Panitia Persiapan Kemerdekaan Indonesia*—Preparatory Committee for Indonesian Independence) was a body formed by the Japanese government on August 7, 1945, to finalize Indonesia's independence process, including adopting the constitution and appointing key national leaders.

<sup>52</sup> Tim Lindsey, "Indonesian Constitutional Reform: Muddling Towards Democracy," in *Public Law in East Asia*, 2017, <https://doi.org/10.4324/9781315089263-12>; Farish A Noor, "Looking for Reformasi: The Discursive Dynamics of the Reformasi Movement and Its Prospects as a Political Project," *Indonesia and the Malay World* 27, no. 77 (1999): 5–18.

<sup>53</sup> Barry R. Weingast, "The Political Foundations of Democracy and the Rule of the Law," *American Political Science Review* 91, no. 2 (1997), <https://doi.org/10.2307/2952354>.

<sup>54</sup> Danilo Zolo, "The Rule of Law: A Critical Reappraisal," in *The Rule of Law History, Theory and Criticism* (Springer, 2007), 3–71; Costa and Zolo, "The Rule of Law History, Theory and Criticism."

<sup>55</sup> William E. Scheuerman, "Cosmopolitan Democracy and the Rule of Law,"

upholds fundamental human rights—such as freedom of speech, assembly, and religion—allowing the public to engage meaningfully in the political process and challenge decisions that violate their rights.<sup>56</sup>

In the context of Indonesia, the role of an independent judiciary becomes critical in ensuring that democratic principles are upheld. The judiciary, as the guardian of the rule of law, must be free from political interference, ensuring justice is dispensed impartially.<sup>57</sup> This ideal is enshrined in Article 1 Paragraph (3) of Indonesia's 1945 Constitution, which stresses the necessity of democracy and the rule of law. However, the application of this principle in practice cannot be limited to formal adherence to procedures; it demands a deeper engagement with the substantive justice that addresses the underlying issues affecting democracy, particularly the electoral process.

In a true democratic rule of law, elections are not merely about vote counting; they are a fundamental mechanism for ensuring that state power remains accountable to the people.<sup>58</sup> Thus, elections must be free, fair, and transparent, ensuring that no violation, no matter how minute, alters the integrity of the democratic process. In this regard, electoral integrity in Indonesia continues to face significant challenges, as evidenced by the TSM electoral violations that threaten the nation's democratic ideals. The Constitutional Court plays a crucial role in addressing these violations, particularly in its examination of electoral disputes. Initially, the Court's

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*Ratio Juris* 15, no. 4 (2002), <https://doi.org/10.1111/1467-9337.00218>; Thomas M. Franck, "The Emerging Right to Democratic Governance," in *Global Minority Rights*, 2017, <https://doi.org/10.2307/2203138>.

<sup>56</sup> Antje Wiener et al., "Global Constitutionalism: Human Rights, Democracy and the Rule of Law," *Global Constitutionalism* 1, no. 1 (2012), <https://doi.org/10.1017/s2045381711000098>.

<sup>57</sup> Butt, "Indonesia's Constitutional Court and Indonesia's Electoral Systems"; Luthfi Widagdo Eddyono, "Independence of the Indonesian Constitutional Court in Norms and Practices," *Constitutional Review* 3, no. 1 (2017), <https://doi.org/10.31078/consrev314>; Ibnu Sina Chandranegara, "Defining Judicial Independence and Accountability Post Political Transition," *Constitutional Review*, 2019, <https://doi.org/10.31078/consrev525>.

<sup>58</sup> Weingast, "The Political Foundations of Democracy and the Rule of the Law," pp:257.

jurisdiction focused primarily on technicalities, such as vote counting, but over time, its role has expanded to encompass a broader interpretation of electoral fairness, including the scrutiny of allegations of electoral fraud.

Despite this evolving role, the Constitutional Court's approach to TSM violations often remains narrowly focused on procedural issues, primarily the verification of vote counts, rather than considering the broader political and structural factors that perpetuate electoral corruption. This limited interpretation of TSM violations constitutes a significant jurisprudential failure. While fraud, such as money politics and voter manipulation, can be addressed through technical means, the broader structural injustices—such as the manipulation of state resources, political intimidation, and media control—are often left unexamined. The Court's failure to engage with these systemic factors significantly undermines the democratic process, as it overlooks the political and economic powers that shape electoral outcomes.

In analyzing the Constitutional Court's previous rulings regarding TSM violations, it is evident that the Court has frequently confined its analysis to proving a direct link between electoral fraud and the final vote tally, rather than investigating the broader political context in which elections occur. For instance, in Decision No. 55/PHPU.A-VIII/2010, the Court ruled on the discrepancy in vote counts but failed to investigate the widespread electoral malpractice that affected the election results, despite clear indications of systematic manipulation. This decision, while significant, failed to address the deeper political issues that compromised the electoral integrity.

This narrow focus on vote counting represents a failure of the Court to address the substantive injustices that shape Indonesia's electoral process. By restricting its analysis to procedural issues, the Court risks legalizing structural injustices, thus undermining the integrity of the democratic process. Legal scholars such as Hirschl have critiqued this trend, highlighting the way in which courts, by focusing on legal neutrality, avoid addressing the political

dimensions of governance.<sup>59</sup> In this sense, the Constitutional Court's failure to confront the root causes of electoral fraud risks preserving the political status quo rather than challenging the entrenched power structures that perpetuate electoral malpractice.

The implications of this approach for Indonesia's democracy are profound. By allowing electoral fraud to go unchallenged unless it alters the final vote tally, the Constitutional Court implicitly condones electoral manipulation as long as it does not result in a quantifiable change in the outcome. This not only weakens the legitimacy of the electoral process but also erodes public trust in democratic institutions, particularly among marginalized groups whose votes are systematically undermined through illegal practices. When the Court fails to intervene in cases of widespread electoral malpractice, it sends a message to the public that such manipulation is tolerable, as long as it does not alter the numerical outcome. This stance fundamentally undermines the essence of democratic governance, as it enables illegitimate power to prevail.

To address these shortcomings, the Constitutional Court must adopt a more expansive approach to interpreting TSM violations. Rather than limiting its analysis to vote counting, the Court must consider the political and structural context in which elections take place, recognizing the systemic forces that facilitate electoral fraud. These forces include money politics, voter suppression, and the abuse of state resources. By addressing these issues, the Court can ensure that the electoral process reflects the true will of the people, thereby upholding the integrity of democracy and the rule of law. In particular, the Constitutional Court should look beyond technicalities and engage with the broader political dynamics that shape elections. This includes recognizing the manipulation of state apparatus and resources, the use of intimidation tactics, and the role of media in influencing public opinion. Past decisions, such as in cases involving money politics and voter manipulation, such as Decision No. 25/PUU-XII/2014, the Court's failure to fully consider these structural violations undermines the credibility of its rulings and the

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<sup>59</sup> Hirschl, "The Judicialization of Mega-Politics and the Rise of Political Courts," pp:91.



democratic process as a whole.

By broadening its analysis to include not just vote counting but also the political and economic structures that influence electoral outcomes, the Constitutional Court can help strengthen the rule of law and ensure that the electoral system operates fairly and transparently. This shift would also serve to rebuild public trust in Indonesia's democratic institutions, ensuring that the elections genuinely reflect the will of the people. To this end, the Constitutional Court must recognize that addressing TSM violations is not merely a technical exercise; it is a fundamental aspect of ensuring that democracy functions in a way that upholds the sovereignty of the people.

In sum, the path to a robust democratic rule of law in Indonesia requires more than a technical adherence to legal procedures. It demands a substantive understanding of justice that addresses the deeper political and structural forces that undermine the electoral process. The Constitutional Court, as the ultimate guardian of democracy, must be willing to confront these forces and adopt a more comprehensive approach to electoral justice. This involves not just verifying vote counts but ensuring that the electoral process is conducted with integrity, free from the manipulation of political and economic power. By doing so, the Court can fulfill its role as a protector of democracy,<sup>60</sup> ensuring that the will of the people is truly reflected in the outcomes of elections, and ultimately strengthening the democratic fabric of the nation.

## Conclusion

Elections are a fundamental pillar of democracy, and their quality directly impacts democratic stability. In Indonesia, the legal framework addressing structured, systematic, and massive (TSM) electoral violations aims to protect electoral integrity, but its current implementation is hindered by challenges in proving these violations in court. To strengthen democratic processes, it is essential to reinterpret TSM violations, not only in terms of vote counts but also

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<sup>60</sup> Read in Shashvat Tiwari, "The Role of the Judiciary in Upholding Democratic Principles," *International Journal of Law Management & Humanities* 7, no. 6 (2024): 539–55, <https://doi.org/https://doi.org/10.10000/IJLMH.118560>.

considering the quality of the electoral process and the abuse of power that distorts it. The Constitutional Court plays a crucial role in ensuring electoral integrity by addressing these violations, but it must redefine its approach to include a broader understanding of TSM violations. Clearer, more measurable standards for assessing electoral offences will provide legal certainty, deter future violations, and bolster public trust in democratic institutions.

Reforming the legal framework for TSM violations and enhancing the Court's capacity to address the broader political dynamics will foster a stronger, more resilient democracy in Indonesia. This redefinition of electoral justice is not just a legal issue but is central to the broader challenge of ensuring that democracy in Indonesia is transparent, accountable, and truly reflective of the people's will. Therefore, it is recommended to reform the legal framework to expand the definition of TSM violations to include both quantitative and qualitative factors related to the electoral process, establish clearer, measurable criteria for assessing electoral violations to ensure consistency and transparency in judicial decisions, strengthen the capacity of the Constitutional Court to address systemic abuse of power and political manipulation in the electoral process, and enhance public awareness and education on electoral rights and judicial accountability. By revising the approach to TSM violations, Indonesia can reinforce its democratic governance, ensuring that elections are both fair and transparent, and protect democratic institutions from manipulation. Strengthening the judiciary's role in upholding the rule of law and electoral integrity will contribute to long-term stability, ensuring that democratic principles are respected and institutionalized in the face of evolving political challenges.

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