

Dynamics Of Considerations In The Constitutional Court's Decision In Deciding On The Settlement Of Disputes In The 2024 General Election Of Regional Heads And Deputy Regional Heads Of Serang Regency

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ABSTRACT

General Election Result Dispute is a Vote Result Dispute that is the authority of the Constitutional Court, but in several decisions of the Constitutional Court in the Settlement of Regional Head Disputes not only questioned the difference in election results, but also examined and assessed the administrative process of the election stages, to cancel the vote results, which resulted in the cancellation of the general election results. This raises the dialectic of the competence of the Constitutional Court in examining and deciding on the Election Result Dispute case as follows: First, How is the Scope of the Conception of the Election Result Dispute for Regional Heads and Deputy Regional Heads reviewed in the Constitutional Court decision No. 70 / PHPU.BUP-XXIII / 2025?, Second, How is the Constitutional Court Authorized to Examine and Assess Administrative Violations of the General Election Stage Process in Deciding on the Settlement of the General Election Result Dispute for Regent and Deputy Regent?. This study uses the theory of Pragmatic Legal Realism which emphasizes the active role of judges in upholding substantive justice, as well as the Election Theory which places elections as an instrument of democracy that must guarantee the principles of justice, representation, and people's sovereignty. This type of research is descriptive. The analysis method of this research is normative juridical. Data collection techniques are carried out using field studies and literature studies.

Keywords: Constitutional Court, General Election Results Disputes, Regional Elections, Authority, Administrative Violations.

INTRODUCTION

In the context of the nation and state in Indonesia, various aspects have been systematically regulated, including governance designed to create balance and harmony within the state. As a state governed by the rule of law, Indonesia holds two types of elections: General Elections (Pemilu) and Regional Head Elections (Pilkada), which have fundamental differences. General elections include the election of members of the People's Representative Council (DPR), the Regional Representative Council (DPD), the Regional People's Representative Council (DPRD), and the President and Vice President. Meanwhile, Pilkada covers the election of Governors, Regents, Mayors, and their deputies. This difference arises because the legal basis governing the two processes is different, including in terms of candidacy requirements, duties, authorities, and other administrative aspects.(Hasan & et.al., 2024).

In practice, the public often assumes that general elections and regional elections have similar objectives because they involve the same voting mechanism, namely through voting at polling stations (TPS). This leads to misunderstandings in

understanding the terms and meanings of both processes. If violations occur during the implementation of elections, whether general elections or regional elections, the responsible parties are the General Elections Commission (KPU) and the Elections Supervisory Body (Bawaslu). Although general elections and regional elections share similarities in their implementation, the regulations and terminology governing them remain distinct.

The basic provisions regarding filling the position of regional head (Governor, Regent and/or Mayor) have been formulated in Article 18 paragraph (4) of the 1945 Constitution which states: "The Governor, Regent and Mayor respectively as Head of the Provincial, Regency and City Regional Government are elected democratically". The meaning of democratic is realized in two forms, namely direct democracy and indirect democracy, in the context of regional elections in Indonesia, which has implemented indirect regional elections, namely elections through the Regional Representative Council (DPRD) and direct regional head elections have been carried out since 2005 except for the election of the Governor and Deputy Governor of the Special Region of Yogyakarta.(Ahmad, 2018).

The election of Governors, Regents and Mayors is carried out democratically as mandated in Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, so the sovereignty of the people and democracy from the people, by the people and for the people must be respected as the main conditions for the implementation of the election of Governors, Regents and Mayors. The sovereignty of the people and democracy must be emphasized by implementing the election of Governors, Regents and Mayors directly by the people, while still making several fundamental improvements to the various problems of direct elections that have been implemented so far.

The implementation of direct regional head elections (Pilkada) was first regulated in Law Number 32 of 2004 concerning Regional Government. The term "Pilkada" was changed to "general regional head elections" following a Constitutional Court ruling that included them as part of general elections and regulated the transfer of authority to adjudicate election disputes from the Supreme Court to the Constitutional Court.(Asmara & et.al., 2022).

The dynamics of the implementation of general elections and regional elections in Indonesia have provided protection for the voting rights of every citizen to exercise their right to vote directly, whether registered on the Permanent Voters List (DPT) and/or only by using an Identity Card (KTP) or Certificate. This is confirmed by the Constitutional Court's decision in Case No. 102/PUU-VII/2009 regarding the judicial review of Article 28 and Article 111 of Law No. 42 of 2008 concerning the Election of the President and Vice President. Likewise, Decision No. 28/General Election Results Dispute.D-VIII/2010 concerning the Dispute of the Results of the General Election of the Head of the Gresik Region. In this decision, the Constitutional Court stated that voters who are not registered on the DPT can exercise their rights by showing their KTP or passport.(Gemilang, Budiarto, & Ariesta, 2024).

The implementation of general elections and regional elections cannot be separated from the principles that must be implemented properly, namely the principles of direct, general, free, secret, honest and fair.(Sari, 2023). The author thinks

that these five principles have the same position in producing officials with high integrity, based on data from the Indonesian Corruption Watch (ICW), which assesses that there are 10 problems that often occur in the implementation of regional elections. The 10 potential problems that overshadow the holding of simultaneous regional elections include:(Asmawi & Sofwan, 2021):

1. Candidate buying between candidates and political parties
2. The emergence of problematic names (former convicts or corruption suspects) and candidates with dynasties.
3. The emergence of a single candidate.
4. High-cost campaigns are due to the increase in campaign donation limits and the permission for candidates to give items worth up to Rp 25,000 to voters.
5. Collection of illegal models (buying and selling business permits, buying and selling positions, project bribes) and politicization of government programs (grant funds, social assistance, village funds and other vulnerable budgets) for campaigns.
6. Politicization of bureaucracy and state officials, from bureaucrats, teachers to TNI/Polri institutions.
7. Money politics (buying and selling voters' votes)
8. Manipulation of campaign finance reports.
9. Bribery to Election Organizers.
10. Corruption for capital accumulation, buying and selling permits, buying and selling positions, and budget corruption

A similar phenomenon also occurs in the context of a revote (PSU). A revote can be conducted in both the General Election (Pemilu) and the Regional Head Election (Pilkada) if indications of fraud are found during the vote counting process or if other factors violate regulations, such as the unauthorized opening of ballot boxes or other procedural violations.(Rizqi, 2024).

It was noted that in the 2024 simultaneous regional elections, the Constitutional Court had issued a decision regarding the order for a revote in 24 districts/cities. In its decision, the Constitutional Court determined that 24 regions must carry out a revote (PSU), while 9 cases were rejected, 5 were unacceptable, and 1 case required corrections to the General Elections Commission (KPU) decision letter.(Indonesia AK, 2025). Then, 4 regions out of 24 regencies/cities that received a revote decision from the Constitutional Court had a structured, systematic, and massive (TSM) case. The four regions affected by the revote due to this violation were Serang Regency, Parigi Moutong Regency, Banggai Regency, and Mahakam Ulu Regency.(Aulia, 2025).

In the 2024 simultaneous regional elections in Serang Regency, the Constitutional Court, through Decision Number 70/PHPU.BUP-XXIII/2025, decided to annul the results of the 2025 Serang Regency Regional Head Election (Pilkada) and ordered a revote (PSU) at a number of polling stations (TPS) that experienced problems. This decision was based on findings of structured, systematic, and massive (TSM) violations, including abuse of authority by election organizers at the regional level, the involvement of state officials in favoring one of the candidate pairs, and indications of money politics practices that had a significant impact on the election results. In addition, it was also found that some voters who did not meet the

requirements were still given the right to vote, thus creating injustice in the election process.

The Constitutional Court emphasized that the revote must be carried out within the stipulated timeframe in accordance with applicable regulations, with strict oversight from the General Elections Commission (KPU) and the Elections Supervisory Agency (Bawaslu) to ensure transparency and integrity of the revote. This decision aims not only to ensure the legitimacy of the Serang Regency election results, but also as a preventative measure to prevent similar violations in the future. The Court also recommended that the KPU and Bawaslu tighten oversight and improve regulations related to general elections to ensure a fairer and more democratic implementation. (Antara, 2025).

The Court's legal reasoning in this case demonstrates the interplay between the legal-formal approach, the principle of electoral fairness, and the evaluation of the electoral process, which are essential components of the Court's role as guardian of the constitution. Therefore, it is crucial to conduct an in-depth examination of how the Constitutional Court constructed its legal arguments, the rationale for ordering a re-election, and the extent to which these considerations are consistent with the principles of democracy and electoral justice.

The central figure in this school, Richard A. Posner—a prominent judge and scholar in the United States—asserted that “law is a tool for achieving social ends, not a system of logical deduction.” (Leiter, 2002) This statement illustrates the essence of legal pragmatism, namely that law should ideally be a means of resolving concrete problems faced by society, not merely the result of deductive logic based on normative texts. Thus, legal pragmatism encourages law enforcers to think flexibly and consider the effectiveness and relevance of decisions in a constantly changing social context. This decision has had a significant impact on democracy in Indonesia, particularly in ensuring electoral justice. With this decision, candidate pairs found to have committed serious violations can be subject to sanctions, including possible disqualification from candidacy. This Constitutional Court decision serves as an important reference in upholding the rule of law in general elections and strengthens the principles of a transparent and integrated democracy.

The Constitutional Court has a crucial role in the Indonesian state system, particularly in maintaining the constitutionality of the democratic process through its authority to resolve disputes over general election results. Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that the Constitutional Court has the authority to adjudicate at the first and final level, with its decisions being final in cases of disputes regarding general election results. (Constitution, 2010). Therefore, this is further explained in Law No. 10 of 2016. Based on Article 157 of Law No. 10 of 2016 concerning the Election of Governors, Regents, and Mayors, the Constitutional Court is given the authority to adjudicate disputes over regional head election results. This authority is temporary until a special judicial body is established to handle disputes over regional head election results. (Kurniawan, 2017).

Initially, the Constitutional Court's jurisdiction in the context of general elections was limited to legislative and presidential elections. However, following Constitutional Court Decision Number 97/PUU-XI/2013, this authority was

temporarily expanded to include disputes over regional head election results, until a dedicated judicial body was established to handle such cases. Although this authority was later transferred to the Supreme Court and its subordinate judicial bodies through Law Number 10 of 2016, practice shows that the Constitutional Court remains a key actor in maintaining the integrity of general elections, particularly in resolving complex disputes over regional head election results, as seen in Constitutional Court Decision Number 70/PHPU.BUP-XXIII/2025.

The Constitutional Court's authority to examine, adjudicate, and decide on disputes over general election results has been a topic of long debate since the 2004 general elections. This debate was sparked by the lack of clarity in defining the concept of "general election results" and the lack of integration in establishing parameters for testing the validity of the general election results. The core of this debate covers two main aspects: first, general elections are a democratic mechanism that guarantees the rights of citizens to elect and be elected to fill strategic positions in the government structure; second, general elections are a complex procedural series starting from the planning stage, implementation, to the determination of the final results.(Firdaus & et.al., 2024)The main focus of this polemic is closely related to the conceptual and contextual understanding of the terms general election, general election results, and the material objects in the general election dispute itself.

The validity of the vote count is determined by the compliance of all stages of the general election with applicable legal norms, from a qualitative perspective. Conversely, the legitimacy of the elected candidate is determined simultaneously by qualitative and quantitative aspects, namely the quality of the process and the accuracy of the vote data. The qualitative dimension refers to the compliance of all stages of the general election with legal principles and normative procedures as stipulated in laws and regulations, and is free from fraud. The quantitative dimension, meanwhile, refers to the accuracy of the final vote results in the voting and vote counting process, which serve as the basis for determining the elected candidate or candidate pair.(Kühne, 2010).

Thus, this research is worthy of examination because it touches on a fundamental aspect of Indonesia's democratic and constitutional system, namely how electoral justice is upheld through constitutional channels. The Constitutional Court's decision in this case not only has a direct impact on the results of the regional head elections but also reflects the dynamics of legal considerations between the formal-legal approach and the principle of substantive justice. This is important to examine because in several decisions, the Court does not solely consider the vote margin but also considers the impact of procedural violations on the integrity of the general election. Furthermore, the local context of the Serang Regency case holds strategic value because it could set a precedent for other regions, given that the Constitutional Court, as the guardian of the constitution, has final and binding rulings nationally. The lack of in-depth academic study of this decision also reinforces the urgency of research, while opening up space for the development of more progressive election law studies. Thus, this research not only provides theoretical contributions to the development of legal science, particularly constitutional law and election law, but also

has practical value in strengthening a democratic, fair, and constitutional election dispute resolution system.

Based on the background of the problem, the problems that will be discussed are as follows: How is the Scope of the Conception of Disputes over the Results of the Election of Regional Heads and Deputy Regional Heads reviewed in the Constitutional Court Decision Number 70/PHPU.BUP-XXIII/2025? And how is the Constitutional Court Authorized to Examine and Assess Administrative Violations of the General Election Stage Process in Deciding on the Settlement of Disputes over the Results of the General Election of Regent and Deputy Regent?

RESEARCH METHOD

This research approach uses a normative legal research method. The main focus of this research is the decision on the revote in the 2024 regional head elections in Serang Regency which analyzes the Constitutional Court Decision Number 70/PHPU.BUP-XXIII/2025 so that this research uses library research, which is descriptive analysis. The method that will be used in this research is qualitative research. The data used in this research is secondary data, which consists of primary legal materials, secondary legal materials and tertiary legal materials. The data collection technique used in this research is through library research and field studies. The location of this research will be carried out in Serang Regency, Banten Province, namely within the Serang Regency Government, Community and political parties.

RESULT AND DISCUSSION

The scope of the concept of disputes over the results of the General Election of Regional Heads and Deputy Regional Heads is reviewed in the Constitutional Court Decision Number 70/PHPU.BUP-XXIII/2025

1. The Urgency of Regulating Marijuana for Medical Purposes in Indonesia

General Election Results Disputes are one of the legal channels provided in the Indonesian general election legal system to resolve conflicts related to the final results of general elections. In the constitutional system, the Constitutional Court is given constitutional authority to handle these cases. This is emphasized in Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that the Constitutional Court has the authority to adjudicate at the first and final level, whose decisions are final, including deciding disputes regarding general election results. Furthermore, regulations regarding the scope of General Election Results Disputes are also outlined in Law Number 7 of 2017 concerning General Elections. Article 475 paragraph (1) states that general election results disputes are disputes between general election participants and the General Election Commission regarding the determination of the vote count in the national general election results. Based on this provision, General Election Results Disputes are legally focused on objections by general election participants to the vote results officially determined by the KPU.

This is further explained in Law No. 10 of 2016, Article 158 paragraph (2) points a – d:

- (2) Participants in the election for Regent and Deputy Regent and Mayor and Deputy Mayor may submit a request to cancel the determination of the results of the vote count with the following provisions:
 - a. districts/cities with a population of up to 250,000 (two hundred and fifty thousand) people, a dispute over vote acquisition can be submitted if there is a difference of no more than 2% (two percent) of the total valid votes from the final vote count as determined by the District/City KPU;
 - b. districts/cities with a population of more than 250,000 (two hundred and fifty thousand) up to 500,000 (five hundred thousand) people, filing a dispute over the vote count is carried out if there is a difference of no more than 1.5% (one point five percent) of the total valid votes from the final vote count as determined by the District/City KPU;
 - c. districts/cities with a population of more than 500,000 (five hundred thousand) people up to 1,000,000 (one million) people, a dispute over the vote count can be filed if there is a difference of no more than 1% (one percent) of the total valid votes from the final vote count stage of the Regency/City KPU; and
 - d. For districts/cities with a population of more than 1,000,000 (one million) people, a dispute over the vote count can be filed if there is a difference of no more than 0.5% (zero point five percent) of the total valid votes from the district/city vote count.

In practice, the Constitutional Court also considers violations that significantly impact election results, such as Structured, Systematic, and Massive (TSM) violations. This demonstrates that the Court assesses not only the quantitative aspect of vote acquisition but also the quality of the election process. Thus, the scope of Election Results Disputes can encompass both legal-procedural and substantive aspects of electoral justice.

This was proven in the 2024 regional head election process, as recorded from 26 decisions handled by the Constitutional Court, 4 of which included the main points of the TSM request and were granted, including:

No	Case Number	Area	Constitutional Court Decision
1.	70/PHPU.BUP-XXIII/2025	Serang Regency	PSU all regions
2.	75/PHPU.BUP-XXIII/2025	Parigi Moutong Regency	PSU all regions
3.	171/PHPU.BUP-XXIII/2025	Banggai Regency	PSU all regions
4.	224/PHPU.BUP-XXIII/2025	Mahakam Ulu Regency	PSU all regions

General Election Result Disputes are an important instrument in ensuring the integrity and legitimacy of general election results in Indonesia. This mechanism

aims to provide a space for justice for general election participants who feel disadvantaged by the determination of the vote results by the General Election Commission (KPU). Constitutionally, the authority to resolve General Election Result Disputes lies with the Constitutional Court, as regulated in Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia and further elaborated in Law Number 7 of 2017 concerning General Elections.

When viewed in Dispute 70/PHPU.BUP-XXIII/2025 Serang Regency, the scope of the General Election Results Dispute is not only limited to the number of votes obtained, but also includes an assessment of violations that can significantly affect the results of the general election, such as violations that are Structured, Systematic, and Massive (TSM). In constitutional judicial practice, the Constitutional Court has interpreted its authority progressively, by paying attention to the principle of substantial justice in addition to formal procedural aspects. Thus, the General Election Results Dispute mechanism is not merely a forum for quantitative disputes, but rather a space for correction of the quality of electoral democracy. The existence of the General Election Results Dispute confirms that general elections are not enough to only take place procedurally, but must also uphold the principles of justice, legal certainty, and respect for the political rights of citizens.

This is reinforced by the Pragmatic Legal Realism approach of several important figures in the legal realism school from legal practitioners, such as Oliver Wendell Holmes Jr. (1841–1935), Jerome Frank (1859–1957), and social scientist Karl Nickerson Llewellyn (1893–1962), who delivered sharp criticisms of the limitations of normative law. They emphasized that in reality, not all problems, especially complex cases, are explicitly regulated by legislation. Therefore, in the judicial process, the role of judges becomes much more autonomous and creative in interpreting and applying the law, compared to simply citing articles stipulated by lawmakers.(Azizy, 2002).

The views of Holmes, Frank, and Llewellyn demonstrate that law should be understood as a living and evolving tool, not as a closed system subject only to formal logic. In this context, judges act not merely as "mouths of the law," but as active subjects who consider factual conditions, social context, and the impact of decisions on substantive justice. Therefore, a pragmatic approach to law demands that the law enforcement process not be trapped in formalism, but be responsive to the complexity and changes of society. In practice, this approach supports the Constitutional Court's flexibility in handling cases such as election disputes, which often require assessments beyond normative texts to ensure true electoral justice.

2. Scope of Competence of the Constitutional Court in Handling Process Disputes

a. The Law Enforcement System for Regional Head Elections at the Constitutional Court

In order for procedural democracy to become a means of realizing substantive democracy, the implementation of general elections according to the 1945 Constitution, Article 22E paragraph (1) of the 1945 Constitution is carried out on the basis of direct, general, free, secret, honest and fair. This principle is a

constitutional instrument to guarantee an honest and fair contestation process in the succession of government political positions. An honest and fair contest is a *condictio sine qua non* to guarantee the purity of the vote results of the general election. Ensuring that all citizens' rights in the implementation of general elections are protected, served and guaranteed validity, both the right to vote and the right to be elected as the basis for determining the organizers of the state government. Therefore, the implementation of general elections is a long process stage. Starting with the formation of various laws and regulations, the formation of organizers, planning, implementation of stages, determination of results, disputes over results, determination and inauguration of elected candidates.

The planning and implementation stages are a series of service systems to validate the fulfillment of administrative requirements for the exercise of voting rights and the right to be elected on election day. The distribution of the timeframe for the implementation of the stages of activities ensures the rights and obligations of all parties in the implementation process until the determination of the general election results. Therefore, the implementation of the stages of the general election process, the duties and authorities of the organizers, as well as the rights and obligations of each party involved, are within the time regime of the stages regulated by laws and regulations. The place, time, and substance of the affairs of each stage of the process carried out by the general election organizers form the basis for the validity of all forms of actions or deeds of each party involved in the implementation of the general election. Various possible events can occur, both ordinary events and legal events, in the traffic of rights and obligations between parties in the implementation of the stages of the process. Law Number 7 of 2017 concerning General Elections has provided a general election law enforcement system in the stages of the process.

Legal events can result in violations or disputes in the stages of the general election process in accordance with the provisions of Law Number 7 of 2017 concerning General Elections. The various types of violations and disputes cause the general election law enforcement system in the stages of the general election process to vary. Among the general election law enforcement systems explicitly mentioned in Article 460 paragraph (1) of Law Number 7 of 2017 concerning General Elections include: first, general election administrative violations are handled by Bawaslu; second, general election criminal violations are handled by Bawaslu together with the Gakkumdu Center with membership consisting of elements of Bawaslu, the police and the prosecutor's office. General election criminal violations are examined and decided by the District Court; third, violations of the code of ethics of general election organizers are examined and decided by the General Election Organizer Honorary Council (DKPP); Fourth, disputes over the general election process are handled by Bawaslu with a final and binding decision except for decisions regarding: 1) verification of political parties participating in the general election, 2) determination of the final candidate list for the DPR, DPD, Provincial DPRD, Regency/City DPRD, and 3) determination of the Presidential and Vice Presidential Candidate Pairs. These three materials can be challenged in the State Administrative Court with a final

and binding decision, after administrative efforts have been taken at Bawaslu; and fifth, Disputes over General Election Results are examined and decided by the Constitutional Court.

In addition, there is a general election law enforcement system that is not explicitly mentioned in Law Number 7 of 2017, but significantly impacts the stages of the general election process. The law enforcement system in question is the testing of laws and regulations related to general elections, both the Testing of Law Number 7 of 2017 concerning General Elections against the 1945 Constitution at the Constitutional Court and the Testing of KPU Regulations or Bawaslu Regulations against Law Number 7 of 2017 concerning General Elections at the Supreme Court (MA). The time regime for implementing the stages of the process often makes it difficult for general elections to ensure legal certainty and fairness in the final stages of determining vote acquisition and elected candidates. This is especially true for problems that arise during the stages of the process, either because they are not revealed or are not resolved properly based on available legal mechanisms.

Such a situation will undoubtedly create residual problems in the dialectic of election certainty and injustice, ultimately intertwined with the resolution of election result disputes in the Constitutional Court, which is positioned as the final mechanism in the entire election law enforcement system. Remaining administrative violations and unresolved disputes at any stage of the election process will leave behind problems that could potentially burden the election results and become the subject of disputes in the Constitutional Court.

On the one hand, both formally and materially, competent institutional mechanisms and procedures exist to handle and resolve various forms of violations during the electoral process. However, on the other hand, these problems are often uncovered or not handled properly until the voting, counting, and recapitulation of votes. This inevitably creates a dilemma of certainty and justice. Legal certainty primarily focuses on formal and material requirements. Formal requirements encompass the timeframe for handling a case, the institution authorized to handle a case, and the parties with legal standing. Material requirements refer to the substance of the case and the competence of the institution handling and resolving it.

In Law No. 7 of 2017, Article 454 paragraphs 5, 6, 7, and 8, legal provisions, both formal and material, with all their advantages and disadvantages for certainty on the one hand and justice on the other hand, should be accepted as a collective responsibility. It becomes a shared risk if there is a fact or event that has the value of a violation, either an administrative violation or a criminal violation, but then consciously, deliberately allowed without taking action to report or dispute it to the authorized institution. Such as reports of alleged general election violations must be submitted no later than 7 (seven) days from the date of discovery or the results of supervision are determined as findings no later than 7 (seven) days from the date of discovery. No later than 7 (seven) days from the time the findings and reports are received and registered, they must be followed up and if necessary, additional information and studies can be extended

to a maximum of 14 (fourteen) days from the time the findings and reports are received and registered. In reality, there are facts that there are findings and/or reports of alleged violations but more than 7 (seven) days after they were discovered or since they were discovered, they cannot be formally followed up by the agency authorized to handle the violations.

Residual administrative or criminal violations in the stages of the process are simply accepted as formal truth, or they can be re-examined in disputes over election results at the Constitutional Court. The implementation of the stages of the general election process is within the time regime for each stage, as stipulated in statutory regulations. The time period for each stage of the process provides space for every citizen to exercise their rights after fulfilling all the requirements mandated by the statutory provisions. at the same time, including the time for the stages of the process, it becomes a space for general election organizers to carry out their duties and authorities to serve every citizen's rights. This was emphasized by the Constitutional Court in Decision Number 146-02-01/PHPU.DPR-DPRD which was read on August 6, 2019 and Decision Number 183-04-14/PHPU.DPR-DPRD/XVII/2019 which was read on August 7, 2019, pages 105-105 number 4, emphasizing that the construction of the resolution of various legal issues desired by Law Number 7 of 2017 is not only related to institutional matters but also includes the time limit for completing each stage and the follow-up to its implementation that does not interfere with the resolution of disputes over general election results.

All legal issues discovered or reported that affect the election results must be resolved before the national vote tally, including any follow-up actions, is determined. According to the Constitutional Court, after the national vote tally has been determined, it is the Constitutional Court's authority to examine, adjudicate, and decide. Any decision, recommendation, or other form of action that impacts the vote tally after the national vote tally has been determined must be disregarded and has no binding force, except for a Constitutional Court ruling.

A contrario, the handling of reports or findings of violations that occur in the stages of the process that are handled beyond the timeframe for determining the national vote count, as long as they are not related to the vote count in the general election, can be handled by authorized institutions. This includes handling violations that could impact the validity of candidate requirements or nomination requirements for elected candidates and/or candidate pairs. The cancellation of elected candidates and/or candidate pairs who are not proven to no longer meet the candidate requirements and/or candidate pair requirements due to being proven to have committed administrative violations unrelated to the vote count can be canceled by Bawaslu.

The settlement period under the authority of the Constitutional Court began with the enactment of Law No. 12 of 2008 concerning the Second Amendment to Law No. 32 of 2004 concerning Regional Government, until the enactment of Law No. 22 of 2014 dated October 2, 2014. In the provisions of Article 236C of Law No. 12 of 2008, it is emphasized that the transfer of authority to resolve disputes

over the results of regional head elections directly from the Supreme Court to the Constitutional Court, the transfer of authority is carried out no later than 18 (eighteen) months since Law No. 12 of 2008 concerning the Second Amendment to Law No. 32 of 2004 concerning Regional Government was enacted on April 28, 2008, which was effective from November 1, 2008, Exactly on October 29, 2008, the Minutes of the Transfer of Authority to Adjudicate Disputes over Regional Head Elections were signed between the Chief Justice of the Supreme Court and the Chief Justice of the Constitutional Court, followed by the issuance of Circular Letter No. 08A of 2008 concerning the Transfer of Authority to Adjudicate Regional Election Disputes. Pilkada cases that have been received, registered, and examined by the Supreme Court or High Court during October 2008 will be continued and decided until completion.(Indonesia MA, 2008). In exercising its authority to adjudicate disputes over regional head election results, the Constitutional Court issued Constitutional Court Regulation No. 15 of 2008 concerning Guidelines for Proceedings in Disputes over Regional Head Election Results, dated October 23, 2008. Article 86 of Law No. 24 of 2004 stipulates the issuance of PMK in accordance with the authority granted by the Law to complement procedural law and to ensure the smooth implementation of the duties and authorities of the Constitutional Court.

The legal subjects who can be parties (*subjectum litis*) in disputes over the results of regional head elections at the Constitutional Court are those who have legal standing, namely the candidate pair as the Applicant and the organizer of the regional head elections, namely the Provincial KPU/KIP or the Regency/City KPU/KIP as the Respondent. This is stated in Article 3 paragraph (1) of Constitutional Court Decision No. 15 of 2008. The parties in disputes over the results of regional head elections are more similar to the concept of the parties in disputes over the results of presidential elections, but different from disputes over the results of legislative elections. In principle, although the candidate pair in the presidential election and the candidate pair in the regional head elections are nominated by political parties or coalitions of political parties, the parties are the candidate pair concerned. Since Constitutional Court Decision No. 115/PHPU.D-VIII/2010 in the dispute over the results of the 2010 East Belitung Regency regional head election, there is an expansion of the definition of the applicant in the dispute over the results of the regional head election, from initially limited to candidate pairs participating in the regional head election, to also include prospective candidate pairs not determined by the KPU/KIP. In disputes at the Constitutional Court, the involvement of third parties or intervening parties who have a direct interest in the subject matter being examined, known as Related Parties, is recognized. The initiative to participate in the case comes from the third party, on the grounds that legal interests are disturbed, whereas if not involved, these legal interests have the potential to be harmed.

The object of the dispute in the regional head elections is the vote count results determined by the Respondent which affect: the determination of candidate pairs who can participate in the second round of the regional head

elections, or the election of candidate pairs as regional head and deputy regional head. Since the Constitutional Court ruled on Case No. 41/PHPU.D-VI/2008 in the East Java regional head election dispute, the Constitutional Court's authority to examine cases is not limited to adjudicating errors in the vote count results alone, but also includes violations that cause differences in the count results that occur in a structured, systematic, and massive manner. The deadline for filing is no later than three working days after the respondent determines the vote count results for the regional head elections in the relevant region. Applications submitted after the deadline will expire and cannot be registered. Applications must be made in writing in Indonesian in twelve copies, signed by the applicant or his legal representative who has obtained a special power of attorney from the applicant. Applications objecting to the determination of the regional head election results must also be accompanied by evidence.

The systematics of the submitted application contains three things, namely the identity of the parties, a description of the case and demands. The application contains the complete identity of the applicant (candidate pair), accompanied by a photocopy of the candidate pair's National Identity Card (KTP) and proof of being a participant in the regional head election, in addition to the identity of the respondent (KPU/KIP). If there is an error in stating the identity of the parties to the Constitutional Court, the application becomes an error in persona and results in the application being inadmissible. The application describes the *posita* or the basis of the case. The description of the case includes a section containing reasons based on the circumstances of the case, and a section containing reasons for the demands based on law (*middelen van den eis*). The *posita* must clearly describe the error in the vote count results determined by the respondent. The preparation of the *posita* in the case of Regional General Election Results Dispute contains two parts, namely: disclosure of empirical events and provisions regarding the law and/or theory that support the reasons.

The petition contains the petitioner's requests from the judge, which must align with the arguments in the *posita*. The petition requests the judge to overturn the vote count results determined by the respondent and to determine the correct vote count results according to the petitioner. In practice, petitions also require a recount (HSU) or a revote (PSU).

The examination and evidence in cases of disputes over the results of regional head elections are in principle no different from the examination of disputes over the results of legislative elections or presidential elections. The examination of disputes over the results of regional head elections is also carried out quickly (*speedy trial*), with the same examination time as disputes over the results of presidential elections, namely a decision no later than 14 (fourteen) working days from the date of registration. The examination of disputes over the results of regional head elections is the same as for legislative elections, carried out by a panel of judges or a plenary session of judges with at least seven judges," while disputes over the results of the presidential election are examined by a plenary session of judges. The examination process for the trial of regional head

elections is carried out in stages: preliminary hearing, examination, evidence, judges' deliberation meeting and decision.

The preliminary hearing is held to verify the completeness and clarity of the application materials, provide advice on improving the application and inform the deadline for improvement, and review the application's revisions and completeness. In practice, the panel of judges' attitudes regarding revisions vary. Some panels of judges allow time for revisions after the preliminary hearing, while others do not provide the opportunity if the applicant does not initiate revisions during the preliminary hearing.

Article 8 paragraph (2) of PMK No. 15 of 2008 explains that at the examination stage, the trial agenda includes the respondent's response and statements from related parties (if any), evidence, and conclusions. The respondent's response and statements from related parties generally contain rebuttals to the applicant's arguments. In providing evidence, the evidence that can be submitted includes: statements from the parties, letters or writings, witness statements, expert statements, instructions, and other evidence, in the form of information and/or electronic communications. The parties are asked to present evidence directly related to the object of the dispute. Examination of evidence can be conducted through remote trials (video conference).

Evidence in the form of letters or writings must be stamped sufficiently, which can be in the form of minutes and copies of the announcement of the voting results from the Polling Station (TPS) level. The Voting Committee (PPS), the District Election Committee (PPK) to the Provincial or Regency/City KPU/KIP, including minutes and copies of the determination of the vote count results for the candidate pairs at the provincial or regency/city level and the determination of the elected candidate from the Provincial or Regency/City KPU/KIP, as well as other written documents. The parties can present witnesses according to the provisions of Article 11 paragraph (3) of PMK No. 15 of 2008, namely those who saw, heard, or experienced the disputed vote count process themselves, consisting of official witnesses participating in the regional head election and witnesses observing the regional head election. In certain cases, other witnesses required can be summoned by the Constitutional Court, including the general election supervisory committee or the police. The trial provides an opportunity for the parties to present experts who are considered capable of providing information from a theoretical perspective.

In principle, expert testimony differs from witness testimony, considering that expert testimony is an opinion delivered under oath during a trial examination regarding a matter related to the case being examined in accordance with the expertise based on the knowledge and experience possessed. Expert testimony can be delivered orally and/or in writing which will be used as input for consideration by the judge in deciding the case. If the examination is deemed sufficient, the judge will hold a closed Judges' Deliberation Meeting (RPH) to make a decision, which is attended by at least seven constitutional judges. Decision-making in the RPH is carried out by deliberation to reach a consensus. If deliberation is not reached, then the decision is made by a majority vote. The

final vote from the Chair of the RPH determines if a majority vote is not reached, the vote.

The Constitutional Court's decision, rendered in the RPH, must be pronounced in a plenary session open to the public, attended by at least seven constitutional judges. The decision on disputes over the results of regional head elections is final and binding. The decision on disputes over the results of regional head elections may include the petition being inadmissible (*niet ontvankelijk verklaard*), the petition being granted, or the petition being rejected. A petition may be inadmissible if it contains elements of error in persona, error in objecto, the petition being out of time or expired, or if it does not meet the formal requirements for a petition. A petition is granted if the arguments in the petition are proven to be legally sound. The Constitutional Court shall annul the vote count results determined by the respondent and shall determine the correct vote count results. A petition shall be rejected if the arguments in the petition are unreasonable and the evidence fails to convince the judge.

b. The Competence of the Constitutional Court in Handling Process Disputes

The object of the case study is the Competence of the Constitutional Court in handling disputes over the results of regional head elections which were examined, tried and decided by the Constitutional Court during the period of 2008 as the beginning of the transition of the settlement of disputes over regional head elections from the Supreme Court to the Constitutional Court, until 2014 which was the final stage of regional head elections before the implementation of the 2014 General Election. During the period of 2008-2014 there were five types of Constitutional Court decisions handed down in cases of Regional Head Election Results Disputes, namely: granted, rejected, not accepted, withdrawn, and lapsed.

Disputes over the results of regional head elections at the Constitutional Court, whose decision granted the petition based on qualitative violations, also known as Process Disputes, can be classified into two types in this study. First, disputes over the results of regional head elections, whose decision was granted based on qualitative violations that were Structured, Systematic, and Massive (TSM). Second, disputes over regional head elections, whose decision was granted based on principled and measurable violations. (Widodo, 2018).

First, Disputes on the results of regional head elections based on qualitative violations that are Structured, Systematic and Massive (TSM), can be used as a case study is the decision on the dispute over the 2008 East Java regional head elections in the Constitutional Court Decision No. 41/PHPU.D-VII/2008. The Constitutional Court ordered a Revote and Recount of Votes, and the Regency of West Waringin City in 2010. The Constitutional Court Decision No. 45/PHPU.D-VIII/2010, the Constitutional Court Disqualified the elected candidate pair and determined the applicant as the elected candidate. Second, the second classification, disputes on the results of regional head elections whose decisions were granted on the basis of violations that were principled and measurable. This classification is divided again into two criteria, namely the first criterion, on the

basis of violations that did not meet the requirements from the start, taken as a case study of the dispute over the results of the 2008 South Bengkulu Regency regional head elections Constitutional Court Decision No. 57/PHPU.D-VI/2008, the Constitutional Court disqualified the elected candidate pair and PSU. From the PSU results, no pair achieved 30% of the vote, filed an application to the Constitutional Court to be directly determined as the elected candidate and was granted by the Constitutional Court with Decision No. 100/PHPU.D-VIII/2010. Regional head elections for South Bengkulu Regency in 2010, and Tebing Tinggi City in 2010; and the second criterion, on the basis of violations that hinder the right to be elected, was taken as a case study of the dispute over the results of the Jayapura City regional head election in 2010 Constitutional Court Decision No. 196-197-198/PHPU.D-VIII/2010. The application was filed by the prospective candidate pair and the Constitutional Court's decision ordered a repeat of the regional head election by including the prospective candidate pair, and Gorontalo City in 2013 in Constitutional Court Decision No. 32-33/PHPU.D-XI/2013, the petition was submitted by a prospective candidate, and in an interim decision, the Constitutional Court postponed the decision on the main points of the petition until the Manado PTUN Decision No. 05/G/2013/PTUN.MDO and No. 06/G/2013/PTUN.MDO have permanent legal force.

Are these perfectly proven violations within the scope of regional head election disputes, which fall under the jurisdiction of the Constitutional Court? It must be acknowledged that the authority stipulated in the Regional Government Law, as most recently amended by Law No. 12 of 2008 concerning the Second Amendment to Law No. 32 of 2004 concerning Regional Government, is very limited and rigid. Disputes or disputes that arise during the regional head election process, as well as weaknesses in the provisions of the regulations regarding the authority of the institution tasked with resolving disputes regarding the regional head election process, have contributed to the absence of a satisfactory resolution of disputes in the process and can provide a complete solution to the problem before disputes regarding vote counts are brought to the Constitutional Court. It cannot be denied that all deviations that occur during the process and stages of the regional head election will have a fundamental impact on the final result. The absence of effective dispute resolution in the regional head election process requires the Constitutional Court to not allow such a situation to occur, if the evidence presented meets the requirements of legal validity and the gravity of the incident is sufficiently significant. This is not intended to take over the authority to decide on violations and irregularities in the regional head election process, but rather to assess and consider the implications that arise in the vote count by the KPU in Constitutional Court Decision No. 41/PHPU.D-VII/2008, pages 126-127.

The transfer of judicial authority from the Supreme Court to the Constitutional Court is not merely a transfer of institutional authority, but has broad implications regarding the functions and duties of the Constitutional Court as a court to safeguard the constitution. The implications of the transfer of

authority provide a different nature and character in the resolution by the Constitutional Court. The Constitutional Court must not allow the rules of procedural justice to override substantive justice, because the existing legal facts constitute a violation of the constitution, which requires regional head elections to be conducted democratically and not violate the principles of free, honest, and fair elections. The universal principle of law and justice teaches that *nullus/nemo commodum capere potest de injuria sua propria*, so that no candidate pair may benefit in obtaining votes due to violations of the constitution and the principle of justice in the implementation of general elections.

In deciding a case, the Constitutional Court must not only recount the actual vote count results but also seek justice by assessing and adjudicating disputed results. Therefore, although the Constitutional Court can adjudicate only the vote count results, violations that led to the disputed vote count results must also be assessed to uphold justice. The Constitutional Court's prohibition on handling cases of violations and criminal acts in regional head elections means that it cannot perform criminal or administrative judicial functions, but it may adjudicate any violations that impact the vote count results. If the decision merely recounts the recapitulation results, it will be of little use because the existing count results will almost certainly be the same as the composition of the votes cast on the ballot papers. Furthermore, the count results in certain regions can be seen as a recount of violations. (Widodo, 2018).

Ignoring process violations that impact the final outcome would render the Court's authority merely formalistic and fail to protect the principle of electoral justice. Therefore, although the Court is neither a criminal justice nor an election administration body, it can and should still examine violations proven to influence the outcome, as part of its authority to uphold the constitutionality of election results.

This approach aligns with the framework of Legal Realism Theory, particularly the idea of Pragmatic Legal Realism developed by Karl N. Llewellyn. According to this theory, law is not merely a collection of rigid norms, but rather part of a living social institution that must respond adaptively to factual and social contexts. From a realist perspective, judges—in this case, the Constitutional Court—do not merely apply the text of the law, but also use empirical considerations and substantive justice in deciding cases. The Court acts as a protector of constitutional values, not merely a guardian of procedures. Thus, the Constitutional Court's authority in General Election Results Disputes must be interpreted progressively. Not merely as a recount of the vote results, but as a test of the validity of the general election results in relation to violations of the process that violate the principle of a free and fair election. This is crucial to ensure that no candidate pair benefits from violations of the law, as affirmed by the universal principle: *nemo commodum capere potest de injuria sua propria*—no one may profit from their own mistakes.

Indonesia is a democratic country that upholds the fundamental rights of its citizens, including the right to participate in the national development process and in decision-making regarding the direction and fate of the nation. One of the main manifestations of this democratic principle is the individual's freedom to choose and determine one's stance in national life. This clearly reflects respect for the civil and political rights of the people. Discussions about democracy continue to be interesting and relevant because democracy itself is a broad, complex, and multidimensional concept. Understanding democracy is not limited to political formalities but also encompasses the values of justice, participation, transparency, and accountability in various aspects of national and state life. Moreover, when viewed from the contemporary socio-political reality, Indonesia is one of the countries actively striving to strengthen the process of democratic consolidation as the main foundation of governance.

As a nation aspiring to be substantively democratic, Indonesia is obligated to pursue various democratic mechanisms, one of which is holding general elections (*pemilihan umum*). Elections are a vital and strategic tool for realizing the principles of true popular sovereignty. Through elections, the public is given the opportunity to express their will in determining leaders and the direction of government policy. Therefore, elections serve as an important benchmark for assessing a country's level of democratic maturity.

General elections can be held directly or indirectly. Both forms have equal legitimacy, as long as democratic principles such as honesty, fairness, and openness are upheld. Differences in implementation methods do not necessarily diminish the value and significance of the democratic process itself. Rather, variations in election formats reflect the flexibility of the democratic system in adapting to the socio-political context of the society in question.

The Constitutional Court has the legal authority to examine and rule on General Election Results Disputes, as directly stipulated in Article 24C of the 1945 Constitution of the Republic of Indonesia as amended by the third amendment. This provision expressly states that the Constitutional Court has the authority to adjudicate at the first and final instance with a final decision in cases of judicial review of laws against the Constitution, disputes over authority between state institutions whose authority is stipulated by the Constitution, the dissolution of political parties, and disputes regarding general election results. The Constitutional Court is an independent judicial institution, free from intervention by other powers, and based on the principles of the supremacy of law and constitutional justice. As the guardian of the constitution, the Constitutional Court is obliged to carry out its duties and functions objectively by upholding the principles of substantive justice. All forms of decisions issued must be based on valid evidence, verifiable legal facts, and the values of justice that exist in society.

The Constitutional Court's role is vital in ensuring that the people's voice, expressed in the general election process, is truly respected and serves as the basis for determining the direction of national leadership. Therefore, the Constitutional Court's role as a forum for resolving presidential election disputes is a crucial instrument in maintaining the legitimacy of the election results. The Court's decisions not only

determine the continuation of individual candidacies but also significantly impact the strengthening of the constitutional system and the stability of democracy in Indonesia.

Essentially, the establishment of the Constitutional Court reflects the evolution of modern legal and constitutional thought that began to emerge in the 20th century. Indonesia officially became the 77th country in the world to integrate the Constitutional Court into its constitutional system in 2003. The functions and position of the Constitutional Court are regulated in detail in Law Number 7 of 2020, the third amendment to Law Number 24 of 2003 concerning the Constitutional Court. This regulation also explains the provisions regarding the Court's authority to handle General Election Results Disputes. In accordance with the provisions of this law, there are no modifications to the scope of the Constitutional Court's authority to adjudicate general election results disputes. Since its inception, the Constitutional Court has been designed based on its original intent as an institution mandated to resolve conflicts arising from general election results. The primary purpose of this institution is to ensure that the general election process can proceed transparently, fairly, and in accordance with democratic principles, in order to guarantee the legitimacy of the general election results and maintain national political stability after the vote.

The legal procedures that serve as guidelines for the Court in handling presidential election disputes are stipulated in Constitutional Court Regulation Number 4 of 2023 concerning Procedures for Proceedings in Presidential and Vice Presidential Election Dispute Cases. This regulation serves as a formal basis for regulating the trial process in an accountable and proportional manner. In the context of maintaining balance between the branches of state power, the existence of the Constitutional Court as an independent judicial institution has a strategic role in ensuring the upholding of constitutional supremacy and the continuity of a healthy democratic system, therefore the author will explain the juridical aspects related to the Constitutional Court's decision Number 70/PHPU.BUP-XXIII/2025.

That after going through the trial process, it was decided by the Constitutional Court Judge in the Decision that the author will describe, the Petitioner: 1. Dr. H. Andika Hazrumy, S.Sos., M.AP, 2. H. Nanang Supriatna, S.Sos., M.Si, as the Candidate Pair for Regent and Deputy Regent in the 2024 Regent and Deputy Regent Election, Serial Number 1; In this case represented by the Legal Counsel and Advocacy Team for the Candidate for Regent and Deputy Regent of Serang Regency in 2024. Against the respondent: I. General Election Commission of Serang Regency, having its address in Serang Regency. Granting power of attorney to Deni Ismail Pamungkas, SH, MH, Muhtar Latief, S.HI., Fendi Hari Wijaya, SH, Rojak, SH, Agus Sofyan, SH, Eki Wijaya Kusuma SH, H. Wahyudin, SH, MH, Daniel Tonapa Masiku, SH, Justinus Tampubolon, SH, Dorel Almir, SH, M.Kn, Ilham Permana Ramadhan, SH, Samsudin, SH, MH, Saripudin, SH, Mohamad Ifran Sanni, SH, MH, Totok Prasetyanto, SH, MH, Derek Loupatty, SH, Muhammad Fatahilah, SH, Saipul Rahman, SH, MH, Erik Anugra Windi, SH, MH, Vinsensius H. Ranteallo, SH, MH based on Special Power of Attorney Number 01/SK-DIP-MK/XII/2024 dated December 4, 2024 and Special Power of Attorney (Additional) Number 01/SK DIP-MK/I/2025 dated January 6, 2025.

Considering that the Applicant has submitted an application dated December 6, 2024, which was received by the Court on Friday, December 6, 2024 at 13.50 WIB based on the Deed of Submission of Electronic Applicant Application (e-AP3) Number 70/PAN.MK/e-AP3/12/2024 dated December 6, 2024, which has been amended with an Application dated December 10, 2024 received by the Court on December 10, 2024 at 19.12 WIB and then recorded 4 in the Electronic Constitutional Case Registration Book (e-BRPK) on Friday, January 3, 2025 at 14.00 WIB with Number 70/PHPU/BUP-XXIII/2025. In this case, the Constitutional Court has the authority to examine and adjudicate the dispute over the determination of the vote acquisition results of the election of the Candidates for Regent and Deputy Regent of Serang Regency in 2024 and/or as per the Decree of the General Election Commission of Serang Regency Number 2028 of 2024 concerning the Determination of the Vote Acquisition Results of the Election of Regent and Deputy Regent of Serang in 2024 dated December 4, 2024, which was announced by the Constitutional Court on Wednesday, December 4 at 17.00 WIB.

Referring to the provisions of Article 157 paragraph (3) of Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law – which has undergone several amendments and was most recently updated through Law Number 6 of 2020 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2020 concerning the Third Amendment to Law Number 1 of 2015 – it is stated that disputes over the determination of the final vote count results of an election are the authority of the Constitutional Court to examine and decide on the case at the first and final level. This has also been reaffirmed in Constitutional Court Decision Number 85/PUU-XX/2022 which was read on September 29, 2022, which explicitly states that the Constitutional Court has the authority to handle disputes over the final results of regional head elections.

The petition filed by the Petitioner in this case concerns an objection to the determination of the vote count in the 2024 election of the Regent and Deputy Regent of Serang Regency. The objection is specifically directed at the decision issued by the General Election Commission of Serang Regency through Decree Number 2028 of 2024 concerning the Determination of the Vote Count Results for the 2024 Election of the Regent and Deputy Regent of Serang. The determination of the general election results was officially announced by the Constitutional Court on Wednesday, December 4, 2024, at exactly 17.00 WIB. Therefore, this case legally fulfills the elements of an election result dispute which is the jurisdiction of the Constitutional Court based on the provisions of applicable laws and regulations. The legal case filed by the applicant is a Structured, Systematic, and Massive Violation that was significantly committed by Candidate Number 2 in the 2024 Regent and Deputy Regent Election of Serang Regency. The Minister of Villages and Development of Disadvantaged Regions (Mendes Pdt) named Yandri Susanto used his authority to mobilize village heads in the 2024 Banten Pilkada for the victory of the Regent and Deputy Regent Candidate Pair (Ratu Rachmatuzakiah and Muhammad Najib Hamas) Number 2. This is the main point of the legal case which is the regional head election dispute lawsuit filed by the applicant against the respondent.

In relation to the authority of the Constitutional Court in resolving disputes over regional head election results, it is first necessary to emphasize the legal position regarding the phrase "until the formation of a special judicial body" as stated in Article 157 paragraph (3) of Law Number 10 of 2016, which is the second amendment to Law Number 1 of 2015 concerning the Determination of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law (Law 10/2016). This provision states that, "Cases of disputes regarding the determination of the final vote count results of the Election shall be examined and tried by the Constitutional Court until the formation of a special judicial body." However, the phrase has been declared to be contrary to the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) and has been declared to have no binding legal force, based on the Constitutional Court Decision Number 85/PUU-XX/2022 which was read in a plenary session open to the public on September 29, 2022. Therefore, legally, the formulation of Article 157 paragraph (3) of Law 10/2016 must be reinterpreted in its entirety as: "Cases of disputes regarding the determination of the final stage of vote acquisition results of the Election shall be examined and tried by the Constitutional Court," without conditions or a time limit for the formation of a special judicial institution at a later date.

Furthermore, the provisions in Article 157 paragraph (4) of Law 10/2016 emphasize that every election participant has the right to submit a request for cancellation of the determination of the vote count results that have been determined by the Provincial General Election Commission (KPU) and the Regency/City KPU to the Constitutional Court. This strengthens the legitimacy of the Court as a constitutional institution authorized to resolve general election disputes in a fair, final, and binding manner within the framework of upholding the principle of people's sovereignty through constitutional channels. The Court believes that violations in the 2024 Serang Regency regional head election significantly affected the results of the a quo regional head election, so that the 2028/2024 Serang Regency KPU Decision must be declared null and void. However, in this violation, there is a strong reason for the Court not to disqualify Candidate Pair Number 2 because the violation was not directly committed by Candidate Pair Number 2. This is in line with the theory of Pragmatic Legal Realism. Karl N. Llewellyn, a central figure in the pragmatic legal realism school, emphasized that the evolution of law is always closely correlated with the dynamics of social change and the reciprocal interaction between legal understanding and the realities of community life. According to his perspective, law does not exist separately from human life, but is an inseparable part of the cultural structure of society itself. He saw that the legal system is formed and developed through the influence of various cultural elements, such as local traditions, social norms, value systems, collective behavior patterns, and community aspirations that have been embedded and passed down across generations as part of a sustainable social identity.

The fact that there is a legal vacuum regarding the classification of Structured, Systematic, and Massive (TSM) violations has created serious problems in the practice of enforcing general election law in Indonesia. The absence of clear regulations regarding the elements that constitute TSM makes the process of identifying and

proving such violations highly subjective, dependent on the interpretation of each law enforcer or constitutional judge. This creates legal uncertainty, due to the lack of objective standards that can be used as a reference by election participants, organizers, and the wider public. Furthermore, this vacuum also negatively impacts the protection of citizens' constitutional rights. TSM violations are directly related to the basic principles of democracy, namely the right to vote and be elected honestly and fairly. Without a clear classification, serious violations that undermine the integrity of general elections may not be subject to commensurate sanctions, or may even escape legal review altogether. This ambiguity also undermines the legitimacy of general election results and opens up room for political manipulation and public distrust of general election institutions and the constitutional courts. Therefore, regulations that regulate the classification and standards of proof of TSM violations in detail and systematically are very necessary to maintain the dignity of democratic and fair general elections.

Therefore, the Court issued a ruling granting part of the applicant's petition, annulling the Decree of the Serang Regency General Election Commission Number 2028 of 2024 concerning the Determination of the Results of the 2024 Serang Regent and Deputy Regent Election, dated December 4, 2024 and ordering the Serang Regency General Election Commission to be required to hold a revote for the 2024 Serang Regent and Deputy Regent Election at all Polling Stations (TPS) spread across the region. The implementation of the revote must be based on the use of the same Permanent Voter List, Transferred Voter List, and Additional Voter List as used in the previous voting held on November 27, 2024, to ensure the consistency and integrity of voter data. All stages of the implementation must be carried out in accordance with the provisions of applicable laws and regulations and must be completed within a maximum period of 60 (sixty) days from the reading of the a quo decision by the Court. The results of this re-voting process are also considered as the official determination of the vote count, which is immediately valid as the final result and is legally announced by the Constitutional Court to the public without the need for further reporting to the Constitutional Court.

CONCLUSION

- Based on the discussion outlined above, the following conclusions can be drawn:
1. The scope of the concept of General Election Results Disputes, First, interprets Election Results as the acquisition of votes and the elected candidate or elected candidate pair in filling government positions, Second, General Election Results Disputes is one of the legal channels provided in the Indonesian general election legal system to resolve conflicts related to the final results of general elections. Furthermore, the General Election Results Dispute mechanism is not merely a forum for quantitative disputes, but also a space for correction of the quality of electoral democracy. The existence of the General Election Results Dispute emphasizes that general elections are not sufficient to simply proceed procedurally,

but must also uphold the principles of justice, legal certainty, and respect for the political rights of citizens. However, the Court still places a legal limitation that violations that are not proven to have a direct impact on the results of the general election cannot be used as a basis for granting a petition.

2. The Constitutional Court's authority in examining alleged administrative violations of the general election process is still limited and restricted by statutory norms, particularly Article 10 paragraph (1) letter d of Law No. 24 of 2003 and Article 22E of the 1945 Constitution. However, in practice the Constitutional Court does not only evaluate the results of the vote count, but also considers the context of violations that occurred in the general election stages as long as they are proven to influence the final results. The Court does not completely close itself off from legal facts that arise from the general election stages if they are related to the integrity of the results. This is where the Pragmatic Legal Realism approach plays an important role: the Court shows a tendency to use contextual, empirical, and sociological considerations in assessing legal facts, rather than being solely bound by normative texts.

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