



Settlement of general election results disputes in Indonesia by special courts: *Ius Constituendum* perspective and *siyasah fiqh*

Chairul Amri¹

¹Postgraduate Program, Universitas Islam Negeri Alauddin Makassar

Correspondence Email: haairil.amrii@gmail.com

ABSTRACT

Resolving disputes over general election results is essential in maintaining the democratic integrity of a country. In Indonesia, the Constitutional Court carries out the mechanism for resolving disputes over election results. However, the effectiveness of the dispute resolution process still needs to be critically evaluated. This article will discuss the mechanism for resolving disputes over general election results in Indonesia, evaluate the effectiveness of dispute resolution by the Constitutional Court, and explore the ideal concept of resolving disputes over general election results in Indonesia from the perspective of *ius constituent-dum* and *siyasah fiqh*.

Keywords: Dispute resolution; general election results; constitutional court; *ius constituendum*; *fiqh siyasah*

1. INTRODUCTION

In a democracy, general elections are essential for electing leaders and representing the people's voice. However, it is not uncommon for disputes or disputes to occur regarding the results of general elections, which can threaten political stability and government legitimacy. Therefore, resolving disputes over general election results is essential in maintaining the democratic integrity of a country.

In Indonesia, the Constitutional Court carries out dispute resolution over general election results. This high court institution has particular jurisdiction in resolving constitutional disputes, including disputes over election results. The Constitutional Court acts as an independent and neutral dispute resolution institution in deciding disputes

over general election results. This mechanism is regulated in laws regulating the election dispute resolution process.

In this article, an analysis of the mechanism for resolving disputes over general election results in Indonesia will be carried out, with a focus on the role of the Constitutional Court. In addition, the effectiveness of dispute resolution by the Constitutional Court will be evaluated by considering factors such as institutional independence, speed of process, and quality of decisions.

However, resolving disputes over general election results cannot only be seen from a legal perspective. However, it can also be analyzed from the *ius constituent-dum* and *fiqh siyasah* perspective. In the context of *ius constituent-dum*, the ideal concept for resolving election result disputes will be reviewed, which includes the principles of justice, the sustainability of democracy, and the protection of constitutional rights. Meanwhile, from the perspective of *siyasah fiqh*, it will be studied how Islamic law principles can be applied in resolving disputes over general election results.

By looking at the mechanism for resolving disputes over the results of general elections in Indonesia, evaluating the effectiveness of dispute resolution by the Constitutional Court, and exploring the ideal concept of resolving disputes from the perspective of *ius constituent-dum* and *fiqh siyasah*, it is hoped that this article can provide a deeper understanding of efforts to resolve disputes over the results of general elections, practical and by relevant legal principles.

2. Mechanism for Settlement of General Election Results Disputes in Indonesia

The mechanism for resolving disputes over general election results in Indonesia involves several stages regulated by applicable laws and regulations. The following is an explanation of the mechanism for resolving disputes over general election results in Indonesia:

Pre-Filing Stage

The dispute resolution mechanism begins with submitting a lawsuit by the party who feels disadvantaged by the Constitutional Court. This lawsuit must meet specific requirements, such as a specified filing time and clear reasons for violations or irregularities in the general election process.

At the trial examination stage, after the lawsuit is received, the Constitutional Court will conduct a trial examination. At this stage, the parties involved in the dispute will provide their evidence and arguments to the judges. During the trial, the judges will listen to arguments from each party, review the evidence presented, and conduct examinations of the relevant legal aspects.

Final Decision Stage

After the trial examination, the Constitutional Court will finalise the dispute over the general election results. This ruling is in the form of a decision that decides whether the general election results are valid or invalid, as well as the legal implications. The Constitutional Court's decision is final and binding on all parties involved in the dispute.

In resolving disputes over general election results, the Constitutional Court has broad authority to examine, examine, and decide disputes related to violations of the constitution, general election law, or other legal provisions related to general elections. The Constitutional Court also has the authority to cancel or decide to change the results of general elections if significant legal violations are proven.

This dispute-resolution mechanism aims to maintain the integrity of democracy and ensure fairness in general elections in Indonesia. However, please remember that the dispute resolution process can take quite a long time, depending on the complexity and level of controversy of the dispute submitted.

3. Constitutional Court Evaluation of the effectiveness of dispute resolution involves an analysis of the institution's performance in resolving disputes over general election results

Several aspects that need to be evaluated in assessing the effectiveness of dispute resolution by the Constitutional Court include:

Institutional Independence

The effectiveness of dispute resolution by the Constitutional Court is related to its independence as a judicial institution. This independence includes the Constitutional Court's freedom from political pressure and intervention from other parties, as well as the institution's ability to make decisions that are neutral and based on objective legal considerations.

The Duration of Dispute Resolution Process

The effectiveness of dispute resolution also depends on the speed of the process carried out by the Constitutional Court. A process that is too slow can result in legal uncertainty and reduce public trust in the institution. Therefore, it is important to evaluate the extent to which the Constitutional Court is able to handle disputes in a timely manner without sacrificing the quality of decisions.

The quality of Constitutional Court Decisions

The quality of Constitutional Court decisions is an essential benchmark in evaluating the effectiveness of dispute resolution. The decisions must reflect the correct interpretation of the applicable law and constitution. In the context of disputes over

general election results, decisions must consider relevant legal aspects, meet justice criteria, and provide legal certainty for all parties involved.

Protection of Constitutional Rights The effectiveness of dispute resolution by the Constitutional Court can also be assessed from the extent to which this institution can protect the constitutional rights of voters and election participants. Decisions taken must seek to protect political and constitutional rights guaranteed by law and the constitution.

In evaluating the effectiveness of dispute resolution by the Constitutional Court, it is also necessary to consider the challenges and limitations faced by this institution. This can include limited resources, the complexity of the disputes raised, and challenges maintaining the institution's credibility and independence.

Evaluation of the effectiveness of dispute resolution by the Constitutional Court needs to be carried out comprehensively and continuously to identify areas of improvement that may be needed to increase the effectiveness of dispute resolution.

4. The ideal concept for resolving disputes over general election results in Indonesia from the *Ius Konstituendum* perspective. In the *Ius Constituent-dum* perspective, the ideal concept for resolving disputes over general election results in Indonesia can include several principles that must be upheld.

The following is an explanation of the ideal concept of resolving disputes over general election results in Indonesia from the perspective of *Ius Constituent-dum*:

Legal Certainty

Dispute resolution must be based on clear and measurable legal rules. The existence of legal certainty will provide clear guidance for all parties involved in the dispute, including voters, election participants, and the dispute resolution institutions themselves. Legal clarity and certainty are essential prerequisites for maintaining the integrity of democracy and preventing abuse of power.

Independence and Neutrality of Dispute Resolution Institutions

Dispute resolution institutions, such as the Constitutional Court, must have high independence and operate neutrally without political interference. The existence of an independent and neutral institution will ensure that decisions taken are based on objective legal considerations, not influenced by political interests or specific parties.

Protection of Constitutional Rights Dispute resolution must protect the constitutional rights of voters and election participants. Political rights guaranteed by the constitution must be upheld and must not be violated. Dispute resolution institutions must ensure that these rights are well protected and that there is no discrimination in the dispute resolution process.

Public Participation and Transparency The ideal concept for resolving disputes over general election results also includes more active public participation and transparency in the dispute resolution process. Public participation can involve the community in monitoring the dispute resolution process, providing input, and ensuring the accountability of dispute resolution institutions. Transparency in the dispute resolution process, such as open trial examinations to the public, will strengthen legitimacy and public trust in the results of dispute resolution.

Involvement of Related Parties

The ideal concept of dispute resolution also includes the involvement of related parties, such as political parties, election participants, and other stakeholders. Involving relevant parties in the dispute resolution process will ensure that various points of view and interests are accommodated.

5. Legal and Constitutional Implications in Resolving General Election Results Disputes in Indonesia

Resolving disputes over general election results in Indonesia involves significant legal and constitutional implications. The following is an explanation of these implications:

Constitution as the Main Legal Foundation

Settlement of disputes over general election results is based on the constitutional provisions governing general elections in Indonesia. The 1945 Constitution of the Republic of Indonesia (UUD 1945) and other statutory regulations are the primary legal basis governing the implementation of general elections, including resolving disputes that arise in that context. The constitution regulates general election mechanisms, political rights, and institutions responsible for resolving disputes.

The Role of the Constitutional Court

The Constitutional Court is central in resolving disputes over general election results in Indonesia. The Constitutional Court is a constitutional judicial institution tasked with interpreting and reviewing the constitutionality of laws and decisions related to general elections. Constitutional Court decisions have binding force and provide legal certainty in resolving general election disputes.

Popular Sovereignty and the Principles of Democracy

Resolving disputes over general election results must also consider the principles of popular sovereignty and democracy. General elections manifest the people's sovereignty in determining their political representatives. Therefore, dispute resolution must respect the will of the people, which is realised through general elections while still ensuring legal certainty and protection of constitutional rights.

Protection of Constitutional Rights Resolving disputes over general election results must protect the constitutional rights of voters and election participants. Political rights guaranteed by the constitution, such as the right to vote, the right to be elected, and the right to participate in political life, must be guaranteed in the dispute resolution process. The Constitutional Court is essential in ensuring these rights are not violated.

Principles of Justice and Openness

Legal and constitutional implications in resolving disputes over general election results also include the principles of justice and openness. Dispute resolution must be carried out fairly and objectively, without discrimination or political intervention detrimental to either party. The openness of the dispute resolution process, such as through open hearings, is also essential to ensure accountability and strengthen the legitimacy of settlement results.

Applying legal and constitutional implications in resolving disputes over general election results in Indonesia is essential to maintain democratic integrity and legal certainty and protect the constitutional rights of voters and election participants.

6. Comparison with General Election Dispute Resolution Systems in Other Countries

Election dispute resolution systems can vary in each country, depending on the political structure, legal system, and policies adopted. The following is an explanation of the comparison between the general election dispute resolution system in Indonesia and other countries:

Constitutional Court as a Dispute Resolution Institution

In Indonesia, the Constitutional Court carries out general election dispute resolution. The Constitutional Court has the authority to decide disputes related to general elections, including examining and interpreting the constitutionality of election laws and deciding disputes over election results. However, in other countries, there are variations in dispute resolution systems. Some countries may have particular institutions dedicated to handling election disputes, while others may divide dispute resolution powers between several judicial institutions.

Independence of Dispute Resolution Institutions

The independence and independence of dispute resolution institutions may also vary. In Indonesia, the Constitutional Court is expected to have independence and neutrality in deciding general election disputes. However, its implementation still needs to be assessed critically. In some countries, dispute resolution institutions may have a more independent structure, such as members selected from legal experts or involving non-judicial institutions in the dispute resolution process.

Procedural and Substantial Nature of Dispute Resolution

Another difference lies in the procedural and substantive nature of dispute resolution. Some countries may have more formal and structured procedures, with strict stages and time limits for dispute resolution. On the other hand, some countries may prioritise a mediation or negotiation approach in resolving election disputes to reach an agreement between the disputing parties. In addition, some countries may pay more attention to substantial aspects, such as fairness or broader representation, in dispute resolution decisions.

Public Participation and Transparency

Differences can also be seen in public participation and transparency in resolving election disputes. Some countries may encourage more active public participation, such as involving the public or stakeholders in dispute resolution. Transparency in dispute resolution processes, such as public access to information and open hearings, can also vary between countries.

This comparison shows that election dispute resolution systems can vary by country, depending on the existing political, legal, and cultural context. Even though there are differences, the general objective of resolving general election disputes remains the same: to maintain democratic integrity and justice and protect the constitutional rights of voters and election participants.

7. Recommendations for Increasing the Effectiveness of Dispute Resolution on General Election Results

The following are several recommendations to increase the effectiveness of resolving disputes over general election results in Indonesia:

Strengthening the Independence of the Constitutional Court

It is essential to ensure that the Constitutional Court has high independence and is free from political interference. This can be done by strengthening the selection process for constitutional judge candidates that is transparent and based on clear qualifications. In addition, the protection of judges' freedom in carrying out their duties needs to be strengthened so that they can work without external pressure.

Increasing Accessibility and Openness

Increasing accessibility for the public to file election dispute lawsuits is an important step. A system that is simple, clear, and accessible to the public must be introduced, including an easy-to-understand lawsuit filing procedure. In addition, transparency in the dispute resolution process, such as through open hearings and easily accessible publication of decisions, will increase public trust and accountability.

Acceleration of the Settlement Process

Speed in dispute resolution is critical to maintaining the sustainability of the democratic process. Steps should be taken to speed up the resolution process, including strict time limits for dispute hearings, increasing administrative efficiency, and cutting unnecessary bureaucracy.

Increasing Legal and Technical Capacity

Training and capacity building for judges, lawyers, and other parties involved in resolving election disputes can improve the quality of decisions and the overall resolution process. In-depth knowledge of election and electoral law and a technical understanding of the electoral system will help the parties involved in dealing with disputes better.

Alternative Approaches to Dispute Resolution

Apart from the judicial process, alternative approaches such as mediation or negotiation can be used to resolve election disputes. This approach can help reach agreements more quickly and minimise prolonged conflict. However, it is necessary to ensure that this approach still upholds the principles of justice, transparency, and equal participation.

Implementing these recommendations can help increase the effectiveness of resolving disputes over general election results in Indonesia, strengthen democracy, and maintain the integrity of general elections as an essential mechanism for realising the people's will.

CONCLUSION

In this article, the mechanism for resolving disputes over general election results in Indonesia, which the Constitutional Court carries out, has been explained. In addition, the Constitutional Court evaluated the effectiveness of dispute resolution by reviewing the institution's performance and the factors that influence its effectiveness.

From the perspective of *ius constituentium* and *siyasah fiqh*, the ideal concept of resolving disputes over general election results in Indonesia has been discussed. This concept includes principles such as justice, the sustainability of democracy, and the protection of the constitutional rights of voters and election participants.

In resolving disputes over general election results in Indonesia, paying attention to the legal and constitutional implications is essential. This involves a good understanding of the laws and constitution governing general elections and maintaining consistency between dispute resolution decisions and the existing legal basis. In comparison with election dispute resolution systems in other countries, there are variations in dispute resolution institutions, institutional independence, procedural and substantial nature, public participation and transparency. Even though there are differences, the general

objective of resolving general election disputes remains the same, namely maintaining the integrity of democracy and protecting constitutional rights.

Recommendations have been provided to increase the effectiveness of resolving disputes over general election results in Indonesia, including strengthening the independence of the Constitutional Court, increasing accessibility and openness, accelerating the resolution process, increasing legal and technical capacity, and alternative approaches to resolving disputes.

In conclusion, this paper has contributed to enriching the understanding of resolving disputes over general election results in Indonesia from the perspective of *ius constituentium* and *fiqh siyasah*. This article emphasises the importance of continuous efforts to increase the effectiveness of dispute resolution and maintain the integrity of democracy in Indonesia. However, it should be remembered that further development of each section in the form of a scientific journal will require more in-depth analysis, references to relevant sources, and more detailed thinking from the perspective of *ius constituentium* and *siyasah fiqh*.