



Ius Constituentum Election Courts in Indonesia Ahead of National Simultaneous Elections

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ABSTRACT

Prior to the Implementation of National Simultaneous Elections in Indonesia, Ius Constituents of the Election Court. The purpose of this research is to examine the Election Court's Ius Constituendum in Indonesia, precisely how this Special Court is based on the PTUN environment and is placed in each province capital. This study employs normative juridical research, which is concerned with applying rules or norms in positive law. With a legal perspective (statute perspective), a conceptual perspective (conceptual perspective), and a case perspective (case approach). The results of this study show that the institution of a special election court/election in line with the democratic rule of law principles is necessary, as indicated by the following options: Establishment of a special election court/election inside the Administrative Court, to be known as the Election Court. The Administrative Court houses this Special Court, which is located in each province's capital. This Court has the jurisdiction to hear and determine Election Results Disputes, Election/Pilkada Crimes, and analyze and adjudicate Election Administration/Election Disputes. The Administrative Court houses this Special Court, which is located in each province's capital. This Court has the jurisdiction to hear and determine Election Results Disputes, Election/Pilkada Crimes, as well as to analyze and adjudicate Election Administration/Election Disputes. The Administrative Court houses this Special Court, which is located in each province's capital. This Court has the jurisdiction to hear and determine Election Results Disputes, Election/Pilkada Crimes, as well as to analyze and adjudicate Election Administration/Election Disputes.

Keywords: *Ius Constituentum, Electoral Court, Simultaneous Selection.*

1. Introduction

Indonesia is the world's third-biggest democracy, behind the United States and India (Nuna & Moonti, 2019). Indonesian legal rules have not yet established clear regulations on state institutions. (Putra & Muhram, 2021) One evidence of democracy's reality is the periodic conduct of General Elections (Pemilu) and Regional Head Elections (Pilkada), which are conducted following the ideals of direct, general, free, secret, honest, and fair (Luber Jurdil). The Indonesian election law is regulated in the constitution, so it is legally supported. (Syailendra Anantya Prawira, 2019) According to Titi Angraini, the 2019 Indonesian Simultaneous Election was the most complex election in history. In 2019, the election drew over 193 million voters to the country's 809 thousand voting locations. While overseas, 2,326 mobile ballot boxes (KSK) with 426 stations are available (Zulkarnaen et al., 2020).

The 2019 election is intended to elect the President, DPR, DPD, Provincial DPRD, and Regency/City DPRD., this causes complex problems, tiredness, and a heavy task are created. No less than Hamdan Zoelva, Chairman of the Constitutional Court of the Republic of Indonesia (MKRI) from 2013 to 2015, emphasized the complexities of the next Indonesian elections in 2019. Similarly, the Lowy Agency, an Australian-based research institute, stated that Indonesia's 2019 elections were among the most challenging and amazing in the world due to their vast magnitude and completion in a single day. There are up to 193 million voters in this election, making it the most in history regarding directly choosing the President. Similarly, the Lowy Agency, an Australian research institute, stated that the 2019 elections in Indonesia were among the most challenging and remarkable in the world due to their vast magnitude and completion in a single day. There are up to 193 million voters in this election, making it the most in history regarding directly choosing the President. Similarly, the Lowy Agency, an Australian research institute, stated that the 2019 elections in Indonesia were among the most challenging and

remarkable in the world due to their vast magnitude and completion in a single day (Zulkamaen et al., 2020). There are up to 193 million voters in this election, making it the most in history regarding directly choosing the President.

The Indonesian nation faces the political year 2024 when the General Election Commission (KPU-RI) certifies that the country will hold simultaneous National and Regional Head Elections. This is, of course, more intriguing, as it will integrate all election kinds, including presidential, legislative, and general. However, the installation of Pilkada took one year. Moreover, simultaneous elections of five (five) boxes resulted in weariness and an increased workload, resulting in mortality; according to KPU data, 894 police died and 5,175 officers were ill (Mubarok, 2020). This becomes more difficult when the Pilkada's stages are filled with the 5 (five) box elections added to the mix.

Including the issue of problem complexity, heavy workloads, debates, and other discourses that are consuming the nation's energy, there is the issue of the absence of an election court, as mandated by Law No. 8 of 2015 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors to become Laws in conjunction with Law No. 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors to become Laws, as stated in Article 157 of the Law aquo: *First*, election-related disputes are investigated and adjudicated by a special national court. *Second*, prior to executing the national simultaneous election, the special constitutional Court referred to in paragraph (1) is created. *Third*, disputes regarding the determination of vote acquisition results from elections are evaluated and adjudicated by the Constitutional Court until a separate judicial body is established. *Fourth*, election participants may petition the Constitutional Court to annul the Provincial KPU's and Regency/Municipal KPU's decision of vote count results.

Based on Article 157, the author is of the opinion that establishing a special election judiciary becomes a communal assignment to be accomplished before the 2024 National Simultaneous General Election. Even though the mandate for its establishment is mentioned in the Pilkada Law, the special judicial body must be understood broadly as an Electoral Court in a constitutional way and in line with the community's legal demands. The homework assignment is to build this unique judicial body before the 2024 National Simultaneous General Election.

However, in addition to the law's purpose and the possibility to establish the Election Court, some flaws act as roadblocks in our path. For example, according to Article 27 of Law 48 of 2009 on Judicial Power, a Special Court (Election) may be established only in one of the judicial environments subordinate to the Supreme Court, where provisions governing the establishment of a special court must be regulated by law; in other words, the formation of a new court may be established only following the Act. Similarly, as reiterated by Article 28 of Legislation 48 of 2009 about Judicial Power, the authority (competence), position, organization, and procedural law of this Election Court in the future must be controlled by law.

The provisions requiring the establishment of a court following the law were then juxtaposed with the Indonesian legislative body's (DPR-RI) counter-productive action in ejecting the Election Bill from the Prolegnas. It is known that the DPR RI's Legislation Body (Baleg), in collaboration with the Regional Representatives Council (DPD) and government representatives, namely the Ministry of Law and Human Rights, issued a revision to the Law on General Elections (RUU Election) as part of the 2021 Priority National Legislation Program (Prolegnas). The removal of the Election Bill from the Priority Prolegnas for 2021 ensures that presidential, parliamentary, and regional elections will occur concurrently in 2024. Another consequence is the "impossibility" of establishing a "Special Election Court," as this Court's establishment should be included in the Election Law.

The legislative institutions' refusal to revise the Election Law also creates another issue: the critical constitutional dispute on the status of Pilkada in the Indonesian constitutional system remains unresolved. Article 22E paragraph (2) of the Republic of Indonesia's 1945 Constitution (UUD NRI) stipulates, in part, that "general elections are held to elect members of the People's Representative Council, Regional Representative Council, President and Vice President, and Regional People's Representative Council." However, there is no mention of Pilkada in the aquo article, which is found in Article 18 of the 1945 Constitution of the Republic of Indonesia, leading numerous parties to assert that "Pilkada is not an election," as a separate chapter of the constitution governs it.

This confusion, of course, reflects the ambiguity of Indonesian election law's political direction, the ambiguity of its formation standards, where there has been no agreement on the nomenclature (name of the institution), the form, institutionalization, and jurisdiction of this special Court until now. It is unclear if this special Court will take the shape of an Election Court or a Pilkada Court, or whether this special Court would resolve the conflict between the General Election and the Pilkada. The legal truth is that the Pilkada Law contains an order establishing a special court aquo. The mandate to form those above "special judicial body" is based on Article 157 Paragraphs (1) and (2) of Law No. 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors to become Laws. If you look to the law, what is intended is establishing a Pilkada court, not an electoral court. This point is reinforced further by the fact that Election Law No. 7 of 2017 does not contain an order establishing a special court. This is hampered by the political constellation of legislation, in which the DPR-RI has stated that it would not amend the Election Law until 2021.

Furthermore, the current state of affairs is that there are multiple agencies/institutions involved in resolving election/Pilkada disputes; at least five bodies/institutions have the authority to adjudicate, either due to the judiciary's level or since the judicial environment exists. Due to judicial environment factors or delegated authority, the following courts have jurisdiction: the Constitutional Court for disputes over results, the Special Judiciary Agency for disputes over regional election results, the District Courts for criminal elections and regional elections, and the Administrative Court for administrative disputes over elections and regional head elections (Rizwan & Hidir, 2019).

At this point, the Indonesian nation's democratic process is confronted with two vexing issues: first, the necessity of establishing an Election Court before 2024, and second, the constitutional question of whether the MKRI can continue adjudicating disputes over election results in 2024, despite the Constitutional Court's decision Number 97/PUU-XI/2013 concerning the Review of Law Number 12 of 2008 concerning the Second Amendment to Law Number 32 of 2004 concerning Regional Government and Law Number 48 of 2009 concerning Judicial Powers Article 236C of Law No. 12 of 2008 and Article 29 paragraph (1) letter c Law no. 48 of 2009 Contrary to Article 1 paragraph (3), Article 22E paragraph (2), Article 24C paragraph (1) of the 1945 Constitution, which states in decision number 1 that: "The provisions of Article 236 Letter c of Law Number 12 of 2000 apply." The Constitutional Court ruled in a ruling dated January 16, 2014, that its institution no longer has the competence to evaluate and judge complaints concerning regional election results. This is because the Constitutional Court considers Pilkada to be a part of the local government regime, not the electoral regime. Therefore, the Constitutional Court loses its ability to evaluate and resolve disputes over election results by repealing these rules.

The year 2024 is approaching, and time is running out, which means that preparation time is becoming increasingly limited as the phases of the 2024 national simultaneous elections get underway. According to Ahmad Doli Kurnia Tanjung, head of the House of Representatives Commission II, the early steps of the 2024 Simultaneous Elections began in January 2022. Additionally, the Golkar Party official declared that his party has decided on the February 21, 2024, Legislative Election and Presidential Election. Meanwhile, on November 27, 2024, simultaneous regional elections will be place.

Constitution's *ius constituendum* Establishing a special independent judiciary to adjudicate disputes over Regional Head Election results is a critical matter that must be addressed immediately to bolster the Pilkada's existence and ensure electoral justice based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Thus far, it is debatable whether it is necessary or not to form a court. The specific problem of resolving electoral and municipal election issues continues to be a point of contention. Indeed, one of the criteria for a democratic election or regional head election is the existence of a law enforcement system and a mechanism for resolving election disputes fairly and expeditiously (Rosanti, 2020).

Ius Constituendum is a legal concept about the formation of an electoral court in Indonesia, particularly in advance of the 2024 national simultaneous elections. This is also an attempt to demonstrate to the public that significant obstacles impede efforts to establish a special court. The issue is not merely a technical-political one, as the DPR-reluctance RI's to amend the Election Law, which allows for the establishment of a special court through amendments to the Law, but also a fundamental constitutional issue concerning the MK's authority to adjudicate disputes over regional election results. It is hoped that this scholarly oration would result in an offer of legal clarity about the formation of a special election court in Indonesia.

2. Methodology

This study employed normative juridical methodology. That is, it examines the application of rules or standards in positive law (Irwansyah, 2021). The ontology aspect of the object of study in legal science is the norms. (Salam, 2020) Additionally, this study is to compile a database of positive legislation, identify legal principles and doctrines, synchronize existing laws and regulations, and conduct research via the evaluation, examination, and exploration of diverse existing literature (Irwansyah, 2021), data collection techniques are carried out by means of interviews and read scientific books, magazines, newspapers and other readings related to research (Mustika & Salam, 2021). This study employs a statute-based method, a conceptual-based approach, and a case-based approach. The statute approach is carried out to examine all laws and all matters related to the legal issues faced. By taking a conceptual system and examining the views and doctrines that develop within the field of legal science, researchers will discover ideas that contribute to the understanding of legal concepts and legal principles that are pertinent to the legal issues surrounding the judicial constituency *ius* general election in Indonesia prior to the holding of a simultaneous national election. By utilizing secondary legal documents that provide context for core legal materials, such as draft legislation, research findings, and legal circles' work. The researchers will identify concepts and principles of law pertinent to the legal difficulties confronting the electoral Court in Indonesia in the run-up to the holding of simultaneous national elections. By utilizing secondary legal documents that provide context for core legal materials, research findings, and legal circles' work. The researchers will identify concepts and principles of law pertinent to the legal difficulties confronting the electoral Court in Indonesia in the run-up to the holding of simultaneous national elections. By utilizing secondary legal documents that provide context for core legal materials, such as research findings, and legal circles' work (Irwansyah, 2021).

3. Result and Discussion

3.1 Prior to Indonesia's National Simultaneous Elections, *Ius Constituentum* Election Courts

Ius constituendum refers to future legislation or envisioned legal ideal. This is a legal ideal in the management of state life that has not yet been formalized via legislation or other statutory rules. This might refer to the Draft Law (RUU) now under discussion between the DPR and the government, or it could refer to other draft laws and regulations. Although the rules have not yet taken effect, they are expected to do so in the future. Additionally, it should be emphasized that the *ius constituendum* encompasses all norms and concepts incorporated/regulated within the constitution (UUD NRI 1945). However, positive operational legislation has not consistently governed it (in statutory regulations). This contains the legal concepts underlying the establishment of an Indonesian special election court.

In terms of timing, Article 157 paragraph (2) of Law Number 10 of 2016 states: "A special judicial body is established before the execution of simultaneous national elections." Meanwhile, Article 201 paragraph 8 of the same Law states that "National simultaneous voting for Governor and Deputy Governor, Regent and Deputy Regent, as well as Mayor and Deputy Mayor across the territory of the Unitary State of the Republic of Indonesia, will take place in November 2024." Additionally, the time restriction for establishing a special judicial body "before the execution of simultaneous national elections" regularly modifies its composition.

Previously, the 'National Simultaneous Election' that became the deadline for establishing a special judicial body was set for 2027. This provision, however, was amended following the aquo Law, where Article 201 Paragraph (8) of Law Number 10 Year 2016 states: "National simultaneous voting in the Election of Governor and Deputy Governor, Regent and Deputy Regent, as well as Mayor and Deputy Mayor throughout the territory of the Unitary State of the Republic of Indonesia in November 2024." According to Indonesian law's political constellation, provisions for the simultaneous national elections scheduled for November 2024 are still likely to alter (Wahjono, 1991).

Since 2014, the procedures for conducting the Regional Head Elections have been highly dynamic, accelerating in response to the DPR's major currents of politics and legislation. The following table illustrates the dynamics of various settings:

Table 1. Shifting the arrangement of Pilkada Implementation and Election Dispute Settlement Court

No	Legal basis	Description
1	Law No. 22 of 2014 concerning the Election of Governors, Regents, and Mayors	<ul style="list-style-type: none"> a Election by DPRD b Dispute Resolution through general courts. 1. Direct Election; 2. Disputes over the results of the election of governors as well as disputes over the results of the election of regents and mayors at the PT level and can submit an objection request to the Supreme Court
2	Perpu No. 1 of 2014 concerning the Election of Governors, Regents, and Mayors	<ul style="list-style-type: none"> Article 159; a Settlement of disputes over election results is handled by ad hoc judges at the PT determined by the Supreme Court. b The Supreme Court has determined 4 (four) PTs to handle election disputes that are spread throughout Indonesia. 1) Direct Election; 2) Disputes on the results of the election of governors as well as disputes over the results of the election of regents and mayors at the PT level and can submit an objection request to the Supreme Court whose decision is final and binding and no other legal remedies can be taken.
3	Law No. 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 to become Law	<ul style="list-style-type: none"> a Direct Election; b The setting for the "Special Pilkada Judicial Body" appears; c A special judicial body is formed before the implementation of the simultaneous national elections; d Cases of dispute over election results are examined and tried by the Constitutional Court until a special judicial body is formed; e National simultaneous voting will be held on the same day and month in 2027.
4	Law No. 8 of 2015 concerning Amendments to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors to Become Laws	<ul style="list-style-type: none"> 1. Direct Election; 2. the arrangement of the "Special Election Judiciary Agency" is maintained;
5	Law No. 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors to become Laws	<ul style="list-style-type: none"> 3. The projection of the simultaneous national elections is brought forward to the date and month of November 2024.

According to the table above, there appears to have been a shift in the scheduling of the concurrent regional elections and an increase in the ambiguity surrounding the institution for resolving disputes over regional election results. This has exacerbated the insecurity surrounding electoral law enforcement in Indonesia. Although, on the one hand, there is a demand that elections/elections in Indonesia be conducted democratically in order to foster a healthy level of competition, high public participation, and representation, as well as a fair and

legal mechanism for accountability and dispute resolution, elections/elections should occasionally be held in a higher quality.

According to future projections, this special judicial body will be able to function during the execution of the simultaneous national elections scheduled for 2024, however, there is no assurance that the statistics for that year would be consistent. This is reflected in the process of holding the 2019 simultaneous elections, which has been dubbed "the most complicated in the world". The election has resulted in many problems including election logistics issues, the complexity of the DPT problem, the workload of KPPS, which has resulted in illness and death, the sinking of information about legislative candidates, and the loss of the right to vote for Indonesian citizens living abroad, so it is deserving (Ardipandanto, 2019).

3.2 Ideal Level for Establishing a Special Election Court in Indonesia

The mandate to establish a special judicial authority with the competence to adjudicate disputes over regional election results should be carried out within a complete framework of thought. How are the institutional structure, authority's competence, and complexion of judges, as well as their jurisdiction, determined. According to the author, this special Court should ideally be formed not only to resolve disputes over the results of regional elections, as required by Article 157 of Law Number 10 of 2016, but also to serve as an election court authorized to resolve all disputes (process and results) relating to elections and regional elections, except for disputes over the results of elections for the DPR, DPD, President and Vice President, and DPRD, which remain the authoritative bodies.

The establishment of the Election Court/Pilkada will require a significant financial investment. However, based on the long-term legal investment, the Election Court/Pilkada will provide legal alternatives for dealing with electoral cases, making them faster, cheaper, and more manageable while also providing legal certainty to all parties, as well as serve as a mechanism for establishing legal confidence toward a democratic legal state based on Pancasila and the 1945 Constitution of the Republic.

In specifically, referring to Law Number 48 of 2009 which gives authority to legislators to appoint the formation of a special judicial body, the position of a special court must be determined in one of the 4 (four) existing judicial environments, namely in the PTUN environment. This is predicated on the notion that the election results dispute is an administrative matter involving the legitimacy of the KPU's judgment as an executive authority. If this Special Court is constituted, several factors must be examined, including learning and adopting the paradigm and procedure for resolving direct election disputes that the Constitutional Court has handled (Affan, 2018).

Apart from the issue of legal incompleteness, such as the absence of laws and regulations (legal defects) or the absence of a special court to examine and adjudicate disputes over election results, the current empirical legal facts indicate that there is no recognition of authority. Additionally, empirically, there have been multiple changes and adjustments in the institution charged with adjudicating and resolving disputes over the results of regional elections in this nation. This generates legal doubt and demonstrates the vagueness of the institutional, legal dispute resolution process for election results/elections. As a result, the authors suggest the following alternatives for institutionalizing electoral dispute resolution in Indonesia:

Establishment of a Special Election Court through establishing a Special Court inside the Administrative Court." This Special Court is located in each provincial capital and is charged with adjudicating and resolving disputes over the results of regional elections according to Article 157 of Law No. 8 of 2015 in conjunction with Law No. 10 of 2016 and (Election Crimes/Pilkada and also examines and adjudicates disputes over election process/administration/election).

The constitutional argument refers to Article 24 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states explicitly that judicial authority is exercised by a Supreme Court and a Constitutional Court. The embodiment of these provisions is found in Article 27 paragraph (1) of Law No. 48 of 2009 on Judicial Power, which states that "Special courts may be established only in one of the judicial environments under the Supreme Court," implying that the establishment of a Special Court outside the Supreme Court is unconstitutional. Another point of contention is the ineffectiveness of Pilkada's dispute settlement process and the existing election paradigm, which is split at several points. At the ideal level, the Court should have the authority to adjudicate electoral disputes.

It must be recognized that the form of special election courts has still not established legal certainty and justice, such that the establishment of a special court for the settlement of election results that operates independently or as part of another judicial environment following Indonesia's judicial powers (Elcaputera, 2019). The positioning of the special election courts in the PTUN environment, while also conferring authority on the special courts to adjudicate Election/Pilkada crimes, is supported by several legal principles, including the principle of Simple, Fast, and Low-Cost Justice and the *Ius Curia Novit* Principle. In the Law on Judicial Power, it is mandated that law enforcement in Indonesia be swift, exact, straightforward, easy, and low cost.

Concerning the special Court's competence, it must be established within the context of efforts to reform legal instruments about special election courts that were initially mandated to resolve disputes over the results of Regional Head Elections and must be implemented immediately in order to increase the value and quality of democracy; this is not solely for political purposes and is aided by efforts to improve democracy's quality. Democracy in order to ensure that elections are conducted fairly and lawfully. As a result, the power of this special election court must be broadened to include not just disputes over election results, but also other matters about the Pilkada process itself. Additionally, the author believes that this special judicial body's power should be expanded in the future to include disputes over the results of Regional Head Elections and those involving electoral process/administrative problems, and even electoral crimes/elections.

According to Magdalena Laurenzia Seba, the development of this special Court to deal with Pilkada crimes was justified by the fact that Pilkada had separate or specialized characteristics when compared to other criminal offenses. Because only direct elections allow for Pilkada crime. Because the direct Pilkada is conducted only every five years in Indonesia, the Pilkada crime occurs exclusively during that particular period. Meanwhile, other types of crimes, such as robbery, murder, and corruption, might strike at any time (Seba, 2017).

As a result of this, the authors suggest that this special Court be placed in each provincial capital with the jurisdiction to hear Regent/Mayor Election Disputes and Governor Election Disputes in each province. This unique judicial body operates inside the PTUN framework. This choice is justified by the fact that, historically, the handling of violations and the resolution of cases or disputes in elections/elections has been lengthy and convoluted, ignoring the principles of efficiency and effectiveness in the enforcement of election law, despite the fact that the general election requires a swift resolution to avoid potential loss of rights. - to protect voters' and election participants' rights, as well as to avoid government disturbance.

This special Court has the competence to adjudicate at the first and final levels, and its rulings are convincing and binding, which means that binding force (*verbindende kracht*) is instantly created and has permanent legal force once it is proclaimed in a public plenary session. There are no alternative legal remedies available for this judgment, which is *erga omnes* (universal), and must be followed and immediately executed (self-executing) by all state administrative institutions, law enforcement authorities, and people.

Meanwhile, for total competence in the form of the Court's ability to judge a case based on the object, substance, or topic of the disagreement, the researcher suggests that this special Court be empowered to handle process disputes (administration), criminal actions, and result conflicts. Even though it departs from the Pilkada Law by mandating only the formation of a judicial body to resolve disputes over election results, the researcher proposes that this judicial body be expanded into a Special Elections Judiciary Agency, with authority to resolve disputes over the electoral process (administration) Pilkada, election crimes/elections, and disputes over election results (disputes over election results remain with the Constitutional Court). This special judicial body is not required to be empowered to investigate violations of the organizer's code of ethics; this jurisdiction remains with the DKPP. As a result of this option, Bawaslu's function is reformed. Through this Special Elections Court, Bawaslu's competence to adjudicate process problems must be examined and restored to the Court. This special Court has jurisdiction over procedural issues and electoral offences, as well as disagreements over election results. For electoral process (administrative) issues that occur as a result of harmful KPU administrative actions affecting the community or candidate pairs for regional heads. Disputes of this nature can also develop as a result of regional head candidates violating KPU judgments, such as campaign period breaches. For problems arising as a result of state administrative decisions made by the Election/Pilkada organizing institution, the party experiencing disadvantage may promptly initiate an administrative case with this special Court. Likewise with situations that occur as a result of the regional head candidate's breaches of state administrative judgments.

The Special Election Court's Procedural Legislation is designed to be a law that controls the processes and procedures for the execution of the Special Court's powers. This procedural law is a formal law that serves to execute its substantive law, which is a component of the constitutional law that establishes the Special Court's power. As such, the presence of this procedural law is comparable to the existence of criminal process, civil procedure, and state administrative court procedural law. This procedural law is meant to be both a general procedural law that applies to all matters brought before the Special Judiciary Agency and a specialized procedural law that applies to each of these authorities. Thus, the Special Judiciary Body's Procedural Law comprises the Procedural Law for Election Crimes, the Procedural Law for Process/Administrative Disputes, and the Procedural Law for Disputes Over the Regional Head Election Results.

The public is well aware that the Supreme Court's legal proceedings have been ongoing for an extended period of time. As is generally known, prior to 2008, the High Court adjudicated the issue over the Regency/City Pilkada, while the Supreme Court adjudicated the Governor's Pilkada. This does not eliminate the possibility of the disagreeing parties pursuing legal remedies. Election-related disagreements must be settled expeditiously. Pilkada is a public office race that is still in its early phases. Additionally, because Pilkada is a process for filling government jobs, there should ideally be no open government positions.

It is critical that it is enshrined in legislation and not delegated to lesser rules. According to Aan Eko Widiarto's findings, current empirical practice in which the Constitutional Court regulates procedural law through a Constitutional Court Regulation has at least three (three) flaws, namely: first, Legal Uncertainty (*Lex Certa*), second, violation of the hierarchy of laws and regulations. thirdly, the absence of legal order. (2019; Aan Eko Widiarto).

Finally, how do you attract judges. This special Court is composed of a Chairperson, Member Judges, a Secretary, and a Registrar. The Special Court's Chairperson shall be comprised of a Chairperson and a maximum of two (two) Deputy Chairpersons. The President appoints judges from a list of applicants submitted by the Minister of Law and Human Rights, subject to confirmation by the Supreme Court Chief Justice. The President appoints the Chairperson and Deputy Chairpersons from among judges suggested by the Minister and approved by the Chief Justice of the Supreme Court. The Chairperson, Deputy Chairperson, and Judge are appointed for five (five) years and may be reappointed for one (one) additional term. The Chairperson, Deputy Chairperson, and Judge are all state authorities who exercise judicial authority in the Pilkada Disputes arena.

To be appointed as this special judge, each candidate must meet the following requirements:

- a) Indonesian citizens;
- b) at least 45 (forty five) years old;
- c) fear God Almighty;
- d) loyal to Pancasila and the 1945 Constitution;
- e) have never been involved in activities that betrayed the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution or were involved in prohibited organizations;
- f) have expertise in the field of elections and have a law degree or other relevant degree;
- g) authoritative, honest, fair, and of impeccable behavior;
- h) have never been convicted of a criminal offense; and
- i) physically and mentally healthy.

Ad Hoc Judges are also hired as Member Judges to examine and decide specific Pilkada Dispute situations that require specialized competence. To be hired as an ad Hoc Judge, an individual must satisfy the standards outlined above. President as Head of State appoints and dismisses ad hoc justices on the recommendation of the Chief Justice of the Supreme Court. Each Special Court must have at least three (three) ad hoc judges. The statute regulates the procedure for recruiting Ad Hoc Judges at the Pilkada Court.

4. Conclusion

The authors offer the following possibilities for establishing a Special Election Court/Election in line with democratic rule of law principles: Establishing a separate Election/Election Court within the Administrative Court, with a unique name/nomenclature; Election Court. The Administrative Court houses this Special Court, which is located in each province capital. This Court has the jurisdiction to hear and determine Election Results Disputes, Election/Pilkada Crimes, as well as to analyze and adjudicate Election Administration/Election Disputes. This special Court must adopt a number of principles/principles that are appropriate for its purposes and authority. With regard to Outcome Disputes in particular, this special Court has the competence to adjudicate at the first and final levels, with final and binding judgements. has perpetual legal effect once it is concluded in a public plenary session. There is no alternative legal remedy available for this judgment, which is erga omnes and must be followed and enforced directly (self-executing). This Special Court Procedure Code must be included into the Act and not delegated to a subordinate regulation.

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