

Institutional Configuration and Competence of the Special Judiciary for Regional Election Disputes: A Comparative Study and Prospects for Implementation

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Abstract

The dispute resolution system for Regional Head Elections in Indonesia continues to face challenges related to fragmented authority, inconsistencies in judicial decisions, and procedural limitations, which may lead to legal uncertainty and undermine the legitimacy of election outcomes. This study aims to explore the weaknesses of the existing system and propose a more effective institutional model for resolving Pilkada disputes. Employing a normative legal approach with a comparative study method, this research analyzes electoral judicial systems in Mexico, the Philippines, and Germany to identify institutional principles that can be adapted to the Indonesian legal framework. Additionally, this study examines the national legal framework, including Constitutional Court rulings on Pilkada dispute resolution, to assess the effectiveness and limitations of the current mechanisms. The findings indicate that Indonesia's Pilkada dispute resolution system still suffers from overlapping jurisdiction among institutions, inconsistencies in judicial rulings, and delays in dispute resolution processes. Comparative analysis suggests that a more integrated system, is more effective in ensuring legal certainty and judicial independence. Therefore, this study recommends the establishment of a specialized judicial body for Pilkada disputes, endowed with exclusive jurisdiction, institutional independence, and a transparent and expedited dispute resolution process. The implications of this research highlight that institutional reform in Pilkada dispute resolution is crucial for

1. Introduction

Regional Head Elections (Pilkada) serve as a fundamental pillar of Indonesia's democratic system, where public political participation is realized through direct elections to determine local leaders¹. However, the complex political dynamics of Pilkada often give rise to disputes related to both the electoral process and its outcome. Ensuring a fair, swift, and equitable resolution of pilkada disputes is crucial for maintaining democratic stability and the legitimacy of local governance. An ineffective dispute resolution system can erode public trust in the electoral process and create opportunities for political instability at a local level.² As Pilkada disputes become increasingly complex and frequent, particularly in decentralized regions, empirical evidence and judicial observations highlight significant weaknesses in Indonesia's multi-institutional dispute resolution framework. Studies have identified recurring jurisdictional overlaps and inconsistent rulings between Bawaslu, the KPU, and the Constitutional Court (MK), especially in the aftermath of the 2020–2021 regional elections. For example, MK has been compelled to assess Bawaslu's recommendations in cases where institutional boundaries are unclear, resulting in procedural confusion and legal uncertainty.³ These recurring challenges underscore the urgent need to evaluate the effectiveness of current mechanisms and critically assess the potential of a specialized judicial institution to ensure coherent, independent, and timely resolution of Pilkada disputes.

¹ Priyambudi Sulistiyanto, “Local Elections and Local Politics in Indonesia: Emerging Trends,” *Journal of Asian Social Science Research* 2, no. 2 (2020): 135–58, <https://doi.org/10.15575/jassr.v2i2.23>.

² Benni Erick and M. Ikhwan, “Mekanisme Penyelesaian Sengketa Pemilihan Umum Di Indonesia,” *Jurnal Analisis Hukum* 5, no. 2 (2022): 203–19, <https://doi.org/10.38043/jah.v5i2.3763>.

³ Titis Anindyajati, “Polemik Tindak Lanjut Rekomendasi Bawaslu Dalam Perselisihan Hasil Pilkada Di Mahkamah Konstitusi,” *Jurnal Adhyasta Pemilu* 6, no. 1 (2023): 28–37, <https://doi.org/10.55108/jap.v6i1.177>.

Constitutionally, the administration of Regional Head Elections (Pilkada) in Indonesia is rooted in Article 18, Paragraph (4) of the 1945 Constitution, which states that "Governors, Regents, and Mayors, each as the head of provincial, regency, and city governments, shall be elected democratically." This provision emphasizes that regional elections must be conducted within a democratic framework that upholds the principles of fairness and legal certainty. Furthermore, Article 24, Paragraph (1) of the 1945 Constitution affirms that judicial power must remain independent in upholding law and justice, including in the resolution of electoral disputes⁴. However, in practice, the current mechanism for resolving pilkada disputes continues to face challenges in terms of effectiveness and consistency in rulings. Law No. 10 of 2016 on the Election of Governors, Regents, and Mayors grants the Constitutional Court (MK) the authority to handle disputes over Pilkada results, while other aspects of Pilkada disputes, such as administrative violations and ethical breaches, fall under the jurisdiction of the Election Supervisory Body (Bawaslu) and Administrative Court (PTUN). This division of authority has led to fragmentation in the dispute resolution system, potentially undermining the principles of legal certainty and substantive justice for the parties involved in electoral disputes⁵.

From a juridical perspective, various legislative regulations also reveal inconsistencies in the legal framework governing the resolution of pilkada disputes. Law No. 7 of 2017 on General Elections stipulates that the Election Supervisory Body (Bawaslu) has the authority to handle disputes related to the electoral process in both general elections and Pilkada, whereas state administrative disputes concerning decisions made by the General Elections Commission (KPU) are adjudicated by the Administrative Court (PTUN).⁶ Meanwhile, Law Number 48 of 2009 on Judicial Power asserts that judicial proceedings must be conducted by competent institutions in accordance with the applicable legal provisions. However, the involvement of multiple institutions in

⁴ Syaiful Asmi Hasibuan, "Sistem Pemilihan Umum Dalam Kaitan Dengan Negara Demokrasi," *Warta Dharmawangsa* 17, no. 2 (May 4, 2023): 602–9, <https://doi.org/10.46576/wdw.v17i2.3174>.

⁵ Graceyana Jennifer et al., "Kedudukan Bawaslu Dalam Menangani Perselisihan Hasil Pemilu : Perspektif Electoral Dan Constitutional Democracy," *Awasia: Jurnal Pemilu Dan Demokrasi* 2, no. 1 (2022): 34–45, <https://doi.org/10.55108/awasia.v2i1.113>.

⁶ Syafriadi and Selvi Harvia Santri, "Analisis Peran Badan Pengawas Pemilu Dalam Penegakan Hukum Pemilu," *REFORMASI* 13, no. 1 (2023): 42–47, <https://doi.org/10.33366/rfr.v13i1.3845>.

Pilkada dispute resolution has led to overlapping jurisdictions, creating legal uncertainty for both election participants and voters⁷. Furthermore, Constitutional Court Decision Number 97/PUU-XI/2013 ruled that the Constitutional Court (MK) no longer has jurisdiction over legislative election disputes but retains authority over Pilkada result disputes. This ruling has sparked a legal discourse regarding the constitutional position of Pilkada within Indonesia's governance system whether Pilkada should be considered part of national elections or a distinct electoral process⁸. This ambiguity further underscores the urgency of examining the establishment of a specialized judicial body with exclusive authority to handle pilkada disputes, ensuring a more coherent and effective legal framework for electoral justice.

In the 2025 Pilkada cycle, the Constitutional Court (MK) received 310 petitions regarding election disputes. Of these, 270 were dismissed before the trial, while 40 cases, including three gubernatorial, three mayoral, and 34 regency elections, proceeded to the evidentiary stage. Although this filtering process may appear efficient, several cases revealed significant dissatisfaction with the disputing parties, particularly due to perceived inconsistencies and procedural ambiguities. Several rulings, including Decision No. 168/PHPU.WAKO-XXIII/2025, No. 132/PHPU.BUP-XXIII/2025, and no. 24/PHPU.BUP-XXIII/2025, the Court extended its judicial reach beyond vote-count matters to assess administrative violations—areas typically under the jurisdiction of Bawaslu or the Administrative Court (PTUN). Such jurisdictional overreach has reignited the debate about MK's competence limitations, which has been similarly highlighted in prior rulings where disputes over administrative procedures were nonetheless accepted by MK due to the lack of a more efficient legal channel.⁹ Establishing a specialized electoral court would resolve these ambiguities by centralizing authority, ensuring judicial specialization, and streamlining procedures. While concerns about fiscal efficiency are valid, studies have shown that current

⁷ Eny Kusdarini et al., "Roles of Justice Courts: Settlement of General Election Administrative Disputes in Indonesia," *Heliyon* 8, no. 12 (2022): e11932, <https://doi.org/10.1016/j.heliyon.2022.e11932>.

⁸ Saiful Risky et al., "Political Configuration of Electoral System Law in Indonesia from State Administration Perspective," *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi*, June 30, 2023, 119–30, <https://doi.org/10.24090/volkgeist.v6i1.7940>.

⁹ Putri Aprilia Anggraini and Anna Erliyana, "REVIEW OF INDONESIAN CONSTITUTIONAL COURT DECISION NUMBER 135/PHP.BUP-XIX/2021," *Journal of Law and Policy Transformation* 7, no. 2 (2023): 121, <https://doi.org/10.37253/jlpt.v7i2.6761>.

jurisdictional overlaps among courts not only cause delays but also undermine legal certainty and access to justice.¹⁰ Thus, a unified judicial mechanism could reduce redundancy, expedite decisions, and promote more consistent enforcement, contributing to both democratic integrity and efficient governance.

In Indonesia, the resolution of Pilkada disputes currently involves multiple institutions, including the Constitutional Court (MK), the Election Supervisory Body (Bawaslu), and the Administrative Court (PTUN), each of which has limited authority over specific aspects of Pilkada disputes¹¹. However, this system faces several challenges, including overlapping jurisdictions, limited authority, and delays in the resolution process, all of which can affect the legitimacy of Pilkada outcomes. A comparative study of countries that have implemented specialized electoral judicial bodies can provide valuable insights for Indonesia to design a more effective and efficient Pilkada dispute resolution system.

Although numerous academic studies have examined electoral dispute resolution, most research remains limited to normative analyses of existing mechanisms, without thoroughly exploring the institutional structure and competence of a specialized judicial body as an alternative solution. Furthermore, studies specifically focusing on Pilkada dispute resolution remain scarce despite the distinct characteristics of Pilkada disputes compared to national elections, which necessitates a more contextualized approach. Therefore, this study aims to bridge the gap in the literature by exploring the institutional configuration and competence of a specialized judicial body for Pilkada disputes through a comparative approach, while also analyzing the prospects for its implementation within Indonesia's legal system.

While previous studies, such as Amancik's normative analysis in *JALREV*, have explored the theoretical need for a special judicial body in regional election disputes, they often stop at legal critiques without offering a structured reform model. For instance,

¹⁰ Ayesha Hanum Nurrahmah et al., "Blurring the Lines: An Analysis of Jurisdictional Overlap between General Courts and State Administrative Courts in Indonesia," *Arkus* 11, no. 1 (2024): 713–26, <https://doi.org/10.37275/arkus.v11i1.663>.

¹¹ Fritz Siregar, "Election Supervision in Indonesia: Options for Reforming the General Election Supervisory Agency," in *Constitutional Democracy in Indonesia*, 1st ed., ed. Melissa Crouch (Oxford University Press/Oxford, 2022), <https://doi.org/10.1093/oso/9780192870681.003.0008>.

Amancik (2022) focused on the legal implications of Law No. 10 of 2016 and the principle of *lex posteriori derogating lex priori*, recommending a specialized court but without a comparative legal basis.¹² By contrast, this study provides an original contribution by systematically analyzing specialized electoral judicial models in Mexico, the Philippines, and Germany. It synthesizes procedural structures, jurisdictional boundaries, and institutional safeguards from each system and evaluates their relevance to Indonesia's legal framework. Furthermore, this study integrates cross-national insights into a concrete policy framework, distinguishing it from prior works that remain primarily descriptive or doctrinal.¹³

Through a comparative study approach, this research analyzes the institutional design of specialized electoral courts in Mexico, the Philippines, and Germany, jurisdictions selected based on their diverse legal traditions and functional solutions to common structural challenges in electoral adjudication. Rather than proposing a direct legal transplant, this study identifies core institutional principles, such as centralized jurisdiction (Mexico), administrative-judicial separation (Philippines), and constitutional oversight (Germany), which offer adaptable frameworks to address Indonesia's fragmented Pilkada dispute resolution system. This approach aligns with prior scholarship, emphasizing the necessity of contextual adaptation when reforming electoral adjudication structures. Moreover, comparative institutional analysis allows for functional benchmarking without compromising constitutional identity, echoing recent reform discourses in Indonesian electoral laws.¹⁴ Therefore, the findings of this study are expected to contribute both theoretically by enriching legal institutional theory and offering viable reform options tailored to Indonesia's socio-legal context. Ultimately, this research bridges academic insight and policymaking relevance, aiming to strengthen democratic governance and uphold the rule of law.

¹² Amancik Amancik et al., "Choices of Law for Democratic Regional Head Election Dispute Resolution Institutions in Indonesia," *Jambura Law Review* 6, no. 2 (2024): 304–38, <https://doi.org/10.33756/jlr.v6i2.24792>.

¹³ Bimo Fajar Hantoro, "Pembatasan Yudisial Dan Perluasan Kewenangan Mahkamah Konstitusi Dalam Memutus Sengketa Hasil Pilkada," *Media Iuris* 7, no. 1 (2024): 101–30, <https://doi.org/10.20473/mi.v7i1.41871>.

¹⁴ Amancik et al., "Choices of Law for Democratic Regional Head Election Dispute Resolution Institutions in Indonesia."

2. Problem Statement

The resolution of Pilkada (regional election) disputes in Indonesia remains a contested arena in both academic and juridical discourse, reflecting the tension between institutional design and the pursuit of substantive justice. Under the current legal framework, jurisdiction over Pilkada disputes is fragmented among the Constitutional Court (Mahkamah Konstitusi, MK), the Election Supervisory Body (Bawaslu), and the Administrative Court (PTUN), each with distinct but overlapping mandates.¹⁵ While this division of authority ostensibly aims to establish a systematic dispute resolution mechanism, it has produced jurisdictional ambiguities, inconsistent legal interpretations, and procedural inefficiencies that undermine legal certainty. A particularly critical concern lies in the narrow jurisdiction of the MK, which—pursuant to Article 157 of Law No. 10 of 2016—is formally limited to adjudicating vote-count disputes, leaving administrative and ethical violations under the purview of Bawaslu and PTUN. Nevertheless, in practice, MK rulings have occasionally ventured into administrative domains, triggering debates over constitutional boundaries and raising the question of whether a specialized judicial body with a unified and comprehensive mandate is needed to handle all dimensions of Pilkada disputes.

These institutional complexities are further compounded by structural limitations within Bawaslu and PTUN, as well as by inconsistencies in judicial outcomes. Bawaslu's authority to resolve process-related disputes and recommend sanctions is hindered by its non-binding decisions and weak enforcement mechanisms, while PTUN's lengthy adjudication process disrupts the electoral timeline.¹⁶ The resulting inefficiencies not only delay the resolution of disputes but also risk eroding public trust in the electoral process. Moreover, divergences in legal interpretation among these bodies have led to markedly different rulings in cases with similar factual and legal characteristics, as exemplified by the 2024 Pilkada disputes where nearly identical administrative

¹⁵ Abdullah Abdullah, "The Establishment of Special Election Courts in Indonesia Based on the State Principles of Democratic Law:," paper presented at 9th Asbam International Conference (Archeology, History, & Culture In The Nature of Malay) (ASBAM 2021), Makassar, Indonesia, 2022, <https://doi.org/10.2991/assehr.k.220408.079>.

¹⁶ Clara Agustine Pradinata et al., "Juridical Study of Administrative Violations in General Elections in Accordance with Bawaslu Regulation of the Republic of Indonesia No. 8 of 2022," *AURELIA: Jurnal Penelitian Dan Pengabdian Masyarakat Indonesia* 2, no. 2 (2023): 1259–64, <https://doi.org/10.57235/aurelia.v2i2.755>.

violations produced disparate sanctions—from candidate disqualification to minor penalties.¹⁷ Such inconsistencies reveal deeper procedural and substantive deficiencies, highlighting the urgent need for an integrated institutional framework that consolidates jurisdiction, strengthens enforcement capacity, and ensures both legal certainty and substantive justice. Against this backdrop, this study interrogates the optimal institutional configuration and competence of a specialized judicial body for Pilkada disputes, aiming to advance an evidence-based model capable of enhancing the coherence, efficiency, and legitimacy of Indonesia’s electoral dispute resolution system.

3. Methods

This study employs a normative legal research approach combined with a comparative study to analyze the institutional configuration and competence of specialized judicial bodies in resolving Pilkada disputes. Normative legal research examines statutory regulations, legal doctrines, and relevant judicial decisions within Indonesia’s legal system.¹⁸ This approach aims to understand the legal norms governing Pilkada dispute resolution mechanisms and to assess their effectiveness in practice. A comparative study is used to analyze how other countries, such as Mexico, the Philippines, and Germany, have developed specialized judicial bodies for electoral disputes and to explore legal principles that can be adapted to Indonesia’s legal framework.

This study relies primarily on secondary data obtained through a literature review of various relevant legal materials. Primary legal sources include the Constitution, statutory regulations governing Pilkada dispute resolution, and judicial decisions related to this issue, particularly those reflecting the Constitutional Court’s expanded jurisdiction in handling Pilkada disputes. Secondary legal sources include books, legal journals, research reports, and academic articles discussing electoral dispute resolution systems in Indonesia and other jurisdictions. Tertiary legal sources, such as

¹⁷ Ari Wirya Dinata and M. Yusuf Akbar, “Mitigation of Indonesia Concurrent Election Dispute Settlement in 2024:,” paper presented at Universitas Lampung International Conference on Social Sciences (ULICoSS 2021), Bandar Lampung, Indonesia, 2022, <https://doi.org/10.2991/assehr.k.220102.055>.

¹⁸ Tunggul Ansari Setia Negara, “Normative Legal Research in Indonesia: Its Originis and Approaches,” *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (2023): 1–9, <https://doi.org/10.22219/aclj.v4i1.24855>.

legal dictionaries and legal encyclopedias, were used to clarify the legal concepts applied in this study.¹⁹

The collected data will be analyzed using qualitative analysis methods, incorporating legal hermeneutics and systematic interpretation to comprehend the meaning and implications of legal norms related to Pilkada dispute resolution. A descriptive-analytical method was employed to illustrate and evaluate the existing Pilkada dispute resolution system in Indonesia, while a comparative legal method was applied to identify best practices from other countries that may be adapted to Indonesia's legal framework.²⁰

4. Discussion and Results

4.1. Theoretical Framework: Electoral Judiciary, Rule of Law, Judicial Independence, and Institutional Effectiveness in Democratic Systems

The dispute resolution system for regional head elections (*Pilkada*) is an integral component of the electoral judiciary, serving to ensure that the electoral process adheres to the principles of democracy and rule of law. The theory of electoral justice emphasizes that a dispute resolution system must be capable of effectively addressing electoral law violations while safeguarding the rights of voters, election participants, and electoral management bodies in a fair and transparent manner.²¹

Substantive justice in regional head elections is an important issue in the study of democracy and governance in various countries.²² In the context of *Pilkada* in Indonesia, the dispute resolution mechanism continues to face several challenges, including jurisdictional fragmentation, inconsistencies in judicial rulings, and the potential for political interference that threatens the independence of the electoral

¹⁹ Hari Sutra Disemadi, "Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies," *Journal of Judicial Review* 24, no. 2 (2022): 289, <https://doi.org/10.37253/jjr.v24i2.7280>.

²⁰ Nur Rohim Yunus et al., "Civil Law System in Indonesia and Its Comparison with Other Legal Systems," *SALAM: Jurnal Sosial Dan Budaya Syar-i* 9, no. 5 (2022): 1629–50, <https://doi.org/10.15408/sjsbs.v9i3.26168>.

²¹ I Dewa Gede Palguna and Bisariyadi Bisariyadi, "The Power of Constitutional Court to Settle Disputes on Local Election Results," *Jurnal Konstitusi* 20, no. 1 (2023): 1–18, <https://doi.org/10.31078/jk2011>.

²² Nurlaily Nurlaily et al., "The Substantive Justice in Regional Elections: A Philosophical and Sociological Comparison of Asian, European, and African Countries," *Jurnal IUS Kajian Hukum Dan Keadilan* 13, no. 1 (2025): 107–27, <https://doi.org/10.29303/ius.v13i1.1656>.

judiciary²³. Therefore, it is crucial to explore the relevant legal theories to design a more effective and equitable electoral judicial system.

Domestic political dynamics are also an important factor in shaping constitutional identity.²⁴ Political freedom and public participation reflect the foundations of democracy.²⁵ The rule of law is a fundamental principle of constitutional democracy, asserting that every electoral process must be subject to clear, consistent, and independently enforceable legal rules.²⁶ This principle demands that the resolution of *Pilkada* disputes should not be influenced by political interests, but must instead be based on objective legal provisions and evidence. However, in practice, there are various indications that the *Pilkada* dispute resolution mechanism in Indonesia still faces significant challenges in optimally upholding its rule of law.

The Constitutional Court's rulings such as Decision No. 132/PHPU.BUP-XXIII/2025 and No. 24/PHPU.BUP-XXIII/2025 illustrates a tendency to adjudicate not only vote-count matters, but also administrative violations related to election procedures. These aspects technically fall under the jurisdiction of the Election Supervisory Body (Bawaslu) or Administrative Court (PTUN). Such judicial overreach has reignited debates on the appropriate boundaries of institutional competence in electoral dispute resolution. These concerns further emphasize the urgency of reforming the electoral dispute resolution system through the establishment of a specialized electoral judiciary.²⁷

Beyond the rule of law, judicial independence is key to ensuring electoral justice. The theory of judicial independence stresses that judicial institutions must be free from

²³ Putri Aprilia Anggraini and Anna Erliyana, "Review of Indonesian Constitutional Court Decision Number 135/PHP.BUP-XIX/2021," *Journal of Law and Policy Transformation* 7, no. 2 (January 1, 2023): 121, <https://doi.org/10.37253/jlpt.v7i2.6761>.

²⁴ Novendri Mohamad Nggilu et al., "Indonesia's Constitutional Identity: A Comparative Study of Islamic Constitutionalism," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 2 (2024): 480–500, <https://doi.org/10.18860/j-fsh.v16i2.29851>.

²⁵ Ahmad Yani Anshori and Landy Trisna Abdurrahman, "Constitutional Contestation of the Islamic State Concept in the Indonesian Parliament 1956-1959," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 2 (2024): 278–316, <https://doi.org/10.18860/j-fsh.v16i2.29572>.

²⁶ Manvi Atwal, "RULE OF LAW AND DEMOCRACY," *International Journal of Education Humanities and Social Science* 06, no. 01 (2023): 259–63, <https://doi.org/10.54922/IJEHSS.2023.0489>.

²⁷ Ahmad Siboy, "Constitutionality of Constitutional Settlement of Disputes for the Election of Local Heads," *Jurnal Cakrawala Hukum* 13, no. 2 (2022): 117–27, <https://doi.org/10.26905/idjch.v13i2.6457>.

executive, legislative, and political influence to function objectively and impartially.²⁸ In the context of *Pilkada* dispute resolution, judicial independence is tested across multiple dimensions, including judicial appointment mechanisms, dispute resolution procedures, and the execution of rulings.

From an institutional perspective, the effectiveness of the electoral judiciary relies heavily on a well-defined organizational structure, clear jurisdictional boundaries, and a dispute resolution mechanism that is both expeditious and legally certain. According to the theory of institutional effectiveness, a judicial system is considered effective when it possesses the capacity to consistently enforce the law, operates through efficient procedures, and maintains public legitimacy.²⁹ A study conducted by Christopher Kam (2020) highlights that the effectiveness of electoral courts is significantly influenced by institutional factors, human resources, and accountability mechanisms³⁰. One of the main challenges in the *Pilkada* dispute resolution system in Indonesia is the prolonged duration of the dispute resolution processes, which can have profound implications for political stability at the regional level.

4.2. The Regional Head Elections Dispute Resolution System in Indonesia

The dispute resolution system for Regional Head Elections (*Pilkada*) in Indonesia is regulated by various legal provisions, reflecting the fragmentation of authority among judicial institutions that handle electoral disputes. Law No. 10 of 2016 provides the legal basis for the *Pilkada* administration, including its dispute resolution mechanisms, which involve the Constitutional Court (*Mahkamah Konstitusi*, MK), the Election Supervisory Body (*Badan Pengawas Pemilu*, Bawaslu), and the Administrative Court (*Pengadilan Tata Usaha Negara*, PTUN). The MK is authorized to adjudicate disputes over election results, while Bawaslu handles procedural disputes, and the PTUN has jurisdiction over administrative cases related to decisions made by the General

²⁸ Cole J. Harvey, "Can Courts in Nondemocracies Deter Election Fraud? De Jure Judicial Independence, Political Competition, and Election Integrity," *American Political Science Review* 116, no. 4 (2022): 1325–39, <https://doi.org/10.1017/S0003055422000090>.

²⁹ Jinsung Huh, "A Constitutional Review of Election Lawsuits: With a Focus on the Adjustment of the Institution in Charge," *Korean Constitutional Law Association* 28, no. 4 (2022): 39–72, <https://doi.org/10.35901/kjcl.2022.28.4.39>.

³⁰ Christopher Kam et al., "The Electoral System, the Party System and Accountability in Parliamentary Government," *American Political Science Review* 114, no. 3 (2020): 744–60, <https://doi.org/10.1017/S0003055420000143>.

Elections Commission (*Komisi Pemilihan Umum*—KPU). However, in practice, this system still faces significant challenges, particularly overlapping jurisdictions, inconsistencies in judicial decisions, and inefficiencies in dispute-resolution implementation.

One of the primary issues within the current system is the limited jurisdiction of the Constitutional Court (MK), which is formally authorized to adjudicate disputes concerning vote-count discrepancies without a mandate to examine alleged administrative violations that may arise throughout the Pilkada process. While it is acknowledged that MK plays a crucial role as the guardian of democracy, especially in safeguarding electoral integrity, this institutional role must still operate within constitutional boundaries. In practice, the MK has occasionally expanded its adjudicatory reach, addressing administrative aspects that should fall under the jurisdiction of the Bawaslu or the Administrative Court (PTUN). For instance, in decision no. 24/PHPU.BUP-XXIII/2025, No. 168/PHPU.WAKO-XXIII/2025, and no. 132/PHPU.BUP-XXIII/2025, the Court not only examined vote-count disputes, but also ruled on procedural administrative matters managed by the KPU. This jurisdictional expansion, although possibly well-intentioned, has sparked academic debates over the proper limits of judicial authority and reinforced the urgency of institutional reform to establish a specialized electoral court that can comprehensively address all components of Pilkada disputes.

Additionally, under Law No. 7 of 2017 and Law No. 10 of 2016, Bawaslu is mandated to oversee procedural integrity in elections, including administrative violations and fraudulent allegations. However, Bawaslu's decisions are often recommended rather than binding, particularly in cases that do not involve structured, systematic, and massive (TSM) violations. As shown by Supriyadi (2023), the ambiguity surrounding the follow-up of Bawaslu's recommendations by the KPU has caused disputes to escalate to the Constitutional Court, revealing a disconnect in institutional coordination.³¹

³¹ Supriyadi and Andi Intan Purnamasari, "Redesign of Administrative Violation Handling at Bawaslu Post Determination of Election Results," *Jurnal Konstitusi* 20, no. 1 (2023): 159–78, <https://doi.org/10.31078/jk2019>.

The State Administrative Court (PTUN), on the other hand, is governed by Law No. 5 of 1986 (as amended) and has jurisdiction over the final and binding administrative decisions issued by election organizers. However, the effectiveness of the PTUN in Pilkada disputes is constrained by limited adjudication timelines and enforcement challenges, especially in politically sensitive cases. Madril (2020) highlights that while the PTUN's authority over election-related administrative disputes is legally recognized, its practical implementation is hindered by time constraints and institutional fragmentation.³² The lack of an integrated framework between Bawaslu, the PTUN, and the Constitutional Court thus exacerbates legal uncertainty and underscores the need for a unified and specialized electoral judiciary.

Overall, Indonesia's current *Pilkada* dispute resolution model is yet to achieve optimal levels of effectiveness and legal certainty. The fragmentation of authority among institutions leads to jurisdictional overlap, prolonged resolution processes, and disparities in judicial decisions. The inconsistency of rulings among judicial bodies—where disputes with similar characteristics receive different decisions from MK, PTUN, and Bawaslu—further exacerbates legal uncertainty³³. For instance, in several *Pilkada* disputes in 2024, administrative violations with nearly identical characteristics resulted in vastly different rulings: one case led to a candidate's disqualification, while another resulted in only minor administrative sanctions.

Beyond institutional challenges, *Pilkada* dispute resolution mechanisms also face accessibility issues for candidates. The formalistic and procedural nature of the current system often creates barriers for candidates with limited resources in seeking justice. The high costs of litigation and uncertainty of outcomes discourage some candidates from filing disputes, even in cases where there are strong indications of systematic administrative violations.³⁴ Therefore, reforming the dispute resolution mechanism is

³² Oce Madril, "THE AUTHORITY OF ADMINISTRATIVE COURT IN SETTLING THE DISPUTES OVER ELECTION PROCESS IN INDONESIA," *Yustisia Jurnal Hukum* 8, no. 3 (2020): 365, <https://doi.org/10.20961/yustisia.v8i3.35553>.

³³ Jamaluddin Jamaluddin, "The Settlement Of Election Disputes By Bawaslu Reviewed From The Indonesian Justice System," *Interdisciplinary Social Studies* 2, no. 2 (February 20, 2022): 521–31, <https://doi.org/10.55324/iss.v2i2.121>.

³⁴ Sandra Leoni Prakasa Yakub Yakub and Qurrata Ayuni, "Legal Standing Provision to The Community on Disputes Over The Results of Regional Elections With A Single Candidate In Constitutional Court," *JASSP* 2, no. 1 (2022): 65–75, <https://doi.org/10.23960/jassp.v2i1.60>.

crucial for ensuring a more inclusive, expedient, and accessible process for all stakeholders.

Based on the above findings, it is evident that Indonesia's current Pilkada dispute resolution framework is suboptimal and marked by systemic dysfunction, not merely normative inconsistencies. The overlapping jurisdictions among the Bawaslu, PTUN, and the Constitutional Court have repeatedly led to institutional confusion, delays in adjudication, and conflicting rulings, as documented in multiple Constitutional Court decisions. These are not theoretical flaws but structural deficiencies that hinder the realization of electoral justice.

The urgency of establishing a specialized Pilkada court lies in its ability to unify fragmented procedures, ensure legal clarity, and restore public trust through swift, coherent, and accountable dispute resolution. Suparto et al. (2023) argue that a specialized court is not only aligned with the mandate of Law No. 10 of 2016 but is essential to resolve the inefficiencies caused by jurisdictional overlaps and the absence of a tiered appeals mechanism in the current system.³⁵

Similarly, Aris (2022) underscores that relying permanently on the Constitutional Court for Pilkada disputes is suboptimal, and that a more ideal model would involve an ad hoc special court under the Supreme Court, thereby enabling decentralization without compromising judicial independence.³⁶ Comparative experiences such as Mexico's TEPJF or the Philippines' COMELEC-Electoral Tribunal structure reinforce that dedicated judicial bodies significantly enhance procedural efficiency, legal certainty, and democratic legitimacy.

4.3. Comparative Study of Electoral Dispute Resolution Systems

Electoral dispute resolution systems vary across countries, reflecting the institutional structures and jurisdictional principles aligned with each nation's political context. A comparative analysis of Mexico, the Philippines, and Germany highlights how

³⁵ Suparto Suparto et al., "Establishment of Electoral Court in Indonesia: Problems and Future Challenges," *Journal of Indonesian Legal Studies* 8, no. 2 (2023), <https://doi.org/10.15294/jils.v8i2.72316>.

³⁶ Mohammad Syaiful Aris, "Pembentukan Peradilan Khusus Penyelesaian Hasil Pemilihan Kepala Daerah Dalam Pelaksanaan Pemilu Serentak Nasional," *Media Iuris* 5, no. 3 (2022): 473-506, <https://doi.org/10.20473/mi.v5i3.34154>.

structural design, judicial independence, and constitutional safeguards are embedded in electoral dispute mechanisms, offering valuable insights for Indonesia.

Table 1. *Comparative Analysis of Electoral Dispute Resolution Systems (Mexico, the Philippines, and Germany)*

Aspect	Mexico (TEPJF)	Philippines (COMELEC & Electoral Tribunals)	Germany (Bundesverfassungsgericht)
Institutional Structure	Independent electoral tribunal, separate from executive and legislative bodies	COMELEC functions as the election management body with quasi-judicial powers, while Electoral Tribunals operate within the legislature	The Federal Constitutional Court adjudicates electoral disputes related to democratic principles
Jurisdiction	Handles all aspects of electoral disputes, including results, procedures, and administrative violations	Administrative disputes are handled by COMELEC, while result disputes for legislative officials are resolved by the Electoral Tribunals	Focuses on constitutional review of alleged violations of democratic principles in elections
Judicial Independence	High—separate from election organizers and political institutions	Low to moderate—Electoral Tribunals include legislative members, making them vulnerable to conflicts of interest	Very high—led by independent judges with no political affiliations
Effectiveness	Very high—broad jurisdiction, binding and final decisions	Limited—potential for political bias in Electoral Tribunals and slow dispute resolution	Moderate—decisions focus on constitutional matters but the process is relatively lengthy compared to other systems
Advantages	1) Comprehensive and independent jurisdiction,	1) Flexible mechanism, 2) Integrates administrative	1) Ensures the supremacy of law in elections, 2) Final decisions immune to political pressure

	2) Fast and final dispute resolution,	and judicial functions	
	3) High legitimacy		
Disadvantages	1) Despite its independence, it may still face political pressure,	1) Potential conflicts of interest in Electoral Tribunals,	1) Lengthy constitutional review process,
	2) Procedural complexity	2) Dispute resolution processes are often slow	2) Does not directly handle administrative disputes

Source: Primary Data Processed in 2025

Mexico’s Electoral Tribunal of the Federal Judiciary (TEPJF) exemplifies a highly centralized model. As a specialized, autonomous body with exclusive jurisdiction over all electoral disputes—spanning legislative, executive, and local levels— the TEPJF ensures clarity in legal authority, thereby minimizing institutional overlap and procedural fragmentation. Its decisions are final and binding, and its operations are independent of both executive and legislative branches. This model enhances legal and public trust.³⁷ For Indonesia, which currently experiences jurisdictional conflicts between the Constitutional Court (MK), Bawaslu, and PTUN, the TEPJF provides a compelling reference for institutional consolidation and streamlined electoral justice.

The Philippines offers a dual-structure model involving the Commission on Elections (COMELEC) and specialized oral tribunals (HRET and SET). COMELEC combines administrative and quasi-judicial functions, while electoral disputes involving parliament members are resolved by tribunals composed partly of legislators.³⁸ This structure allows for procedural flexibility and quicker resolution outside the general courts. However, the inclusion of political actors within adjudicative bodies poses the

³⁷ Andrea Romano, “Constitutional Courts Dealing with Electoral Systems: A Comparative Look at Constitutional Adjudication on Electoral Equality,” *Revista de Investigações Constitucionais* 10, no. 2 (2023): 232, <https://doi.org/10.5380/rinc.v10i2.89827>.

³⁸ Kamal Fahmi Kurnia, “Menakar Penegakan Hukum Praktik Politik Uang (Money Politic) Dalam Mewujudkan Keadilan Pemilu (Electoral Justice),” *LITIGASI* 25, no. 2 (2024): 80–100, <https://doi.org/10.23969/litigasi.v25i2.17313>.

risk of bias and undermines judicial independence.³⁹ This serves as a cautionary model for Indonesia, highlighting the need for stringent institutional checks and separation of administrative and judicial functions.

Germany's Federal Constitutional Court (*Bundesverfassungsgericht*) represents a norm-review model that emphasizes the protection of constitutional rights and democratic principles. It adjudicates electoral disputes involving constitutional violations and ensures that the electoral process conforms to the rule-of-law standards. While the process is often more protracted because of its jurisprudential nature, the model guarantees strong democratic oversight and legitimacy.⁴⁰ This perspective is vital for Indonesia in reinforcing electoral justice through constitutional anchoring.

Comparatively, Indonesia's current system most closely resembles the Philippine model in terms of its fragmented institutional structure. The Constitutional Court (MK), Bawaslu, and the PTUN share overlapping mandates, which has led to adjudicative confusion. Notable examples include decision no. 24/PHPU.BUP-XXIII/2025, No. 168/PHPU.WAKO-XXIII/2025, and No. 132/PHPU.BUP-XXIII/2025, where MK extended its jurisdiction into administrative domains traditionally handled by Bawaslu or PTUN.

Based on this international experience, a hybrid model is recommended for Indonesia.

- a) Mexico is an integrated and independent specialized electoral court with final adjudicative authority.
- b) From the Philippines, flexible procedural pathways, yet with reforms to prevent institutional bias and enhance accountability.
- c) In Germany, strong constitutional oversight was embedded in electoral justice to uphold democratic integrity.

³⁹ Janvencius Valerius Nifowa'azaro Dachi et al., "REVIEWING THE CONSTITUTIONAL RIGHTS ON DEMOCRATIC ELECTION PRACTICES IN INDONESIA AND THE PHILIPPINES," *Justitia et Pax* 39, no. 1 (2024): 1-53, <https://doi.org/10.24002/jep.v39i1.6229>.

⁴⁰ Russell Miller, "Germany vs. Europe: The Principle of Democracy in German Constitutional Law and the Struggle for European Integration," *SSRN Electronic Journal*, ahead of print, 2013, <https://doi.org/10.2139/ssrn.2309620>.

To ensure a fair, efficient, and unified dispute resolution system for Pilkada, Indonesia should establish a specialized electoral court that:

- a) Operates independently from electoral organizers and political institutions.
- b) It possesses broad and exclusive jurisdiction to avoid fragmented authority.
- c) It incorporates constitutional principles and judicial safeguards to ensure procedural fairness and protect democratic values.

This institutional transformation addresses existing legal and procedural ambiguities, while fostering electoral legitimacy and reinforcing public confidence in democratic governance at the regional level.

Indonesia's current framework for resolving regional head election (Pilkada) disputes is characterized by fragmented legal authority, overlapping institutional mandates, and jurisdictional ambiguity. The division of responsibilities among the Constitutional Court (MK), Election Supervisory Body (Bawaslu), and State Administrative Court (PTUN) often results in conflicting rulings, procedural delays, and weakened legal enforcement. These issues not only compromise legal certainty, but also erode public confidence in the integrity of electoral processes.

A comparative analysis of Mexico, the Philippines, and Germany reveals alternative institutional configurations that directly address the core weaknesses identified in Indonesia's system. Mexico's centralized approach through the TEPJF ensures unified adjudication, eliminates disputes over jurisdiction, and enables faster binding decisions. This model aligns with the principles of judicial efficiency and coherence. In contrast, the Philippines demonstrates the benefits of functional differentiation between electoral administration and adjudication, albeit with cautionary lessons regarding the politicization of tribunals. Germany's model, rooted in constitutional oversight, underlines the importance of embedding electoral justice into a broader democratic and human rights framework.

Applied to the Indonesian context, these models collectively argue for systemic rather than incremental reform. The Constitutional Court's recurring involvement in the administrative and procedural aspects of Pilkada, as seen in Decisions No. 24/PHPU.BUP-XXIII/2025 and No. 132/PHPU.BUP-XXIII/2025 highlights the urgent

need for a dedicated judicial mechanism with exclusive and clear jurisdiction over all types of electoral disputes. Without such a structural shift, institutional overlap will continue to hinder the effectiveness of legal remedies and undermine democratic consolidation.

As Tri Susilo (2017) points out, although Law No. 8 of 2015 mandated the eventual creation of a specialized electoral court, the absence of follow-through perpetuated a legal vacuum, forcing MK to temporarily resolve disputes beyond its designed capacity.⁴¹ Similarly, Hermanto and Aryani (2023) emphasize that fragmented adjudicative authority across multiple institutions fails to deliver substantive electoral justice and must be replaced by a dedicated, ad hoc, or permanent judicial body with specific legal and procedural mandates.⁴²

Furthermore, the lack of integration and enforcement capacity within Bawaslu and the PTUN undermines timely and consistent dispute resolution. Establishing a specialized electoral judiciary composed of judges with specific competence in election law, supported by dedicated procedural rules, would ensure the clarity of roles, strengthen enforcement, and reduce the potential for political interference.

In light of these findings, Indonesia's legal system must evolve beyond ad hoc legal interpretations and move towards a codified, specialized judicial framework for electoral justice. This would not only align with best practices from comparative jurisdictions, but also fulfill constitutional mandates of due process, equality before the law, and the protection of democratic values.

4.4. Contribution to the Development of Legal Studies and Implications for the Electoral Judiciary System

This study makes a significant contribution to the development of electoral law theory and judicial institutions, with practical implications for the reform of Pilkada dispute resolution in Indonesia. Theoretically, this enhances the understanding of how

⁴¹ Tri Susilo, "DESIGN OF SPECIAL JUSTICE AGENCY ELECTION CHAIN IN INDONESIA," *UNTAG Law Review* 1, no. 1 (2017): 68, <https://doi.org/10.36356/ulrev.v1i1.524>.

⁴² Bagus Hermanto and Nyoman Mas Aryani, "Quo Vadis Specialised Courts in Indonesia within Constitutional Court Decisions Confines," *Jurnal Penelitian Hukum De Jure* 23, no. 4 (2023): 403, <https://doi.org/10.30641/dejure.2023.V23.403-418>.

institutional design in electoral justice influences the application of the rule of law, judicial independence, and legal certainty within democratic governance. Practically, the findings underscore the structural fragmentation in Indonesia's current system, which undermines effective dispute resolution and necessitates comprehensive reform through the establishment of a specialized judicial body.

From a theoretical standpoint, the study reveals that overlapping institutional mandates, particularly among the Constitutional Court, Bawaslu, and PTUN, create legal ambiguity and procedural inconsistency. This fragmentation leads to jurisdictional conflicts, unclear legal remedies, and weakened enforcement, all of which erode public trust in the electoral system cumulatively. These systemic challenges reflect a deviation from the foundational principles of the rule of law, which require clear jurisdictional boundaries and non-interchangeability of institutional roles. As Satriawan et al. (2022) emphasize, the absence of a specialized court, as mandated by Law No. 7/2017, has perpetuated judicial ambiguity, weakening democratic oversight and hindering procedural effectiveness.⁴³

Furthermore, Chandranegara et al. (2019) highlight that despite constitutional guarantees of judicial independence, the Indonesian judiciary suffers from a lack of institutional clarity and overlapping mandates, especially between the Supreme Court, Constitutional Court, and other bodies, making it difficult to maintain consistent electoral jurisprudence.⁴⁴

Therefore, the core theoretical contribution of this study lies in reframing electoral dispute resolution not merely as a legal-technical issue, but as a structural challenge of institutional coherence. It emphasizes the need for a singular, independent judicial authority equipped with specialized procedural mandates—an institutional

⁴³ M. Iwan Satriawan et al., "Special Judicial Reform Election in Indonesia;" paper presented at Universitas Lampung International Conference on Social Sciences (ULICoSS 2021), Bandar Lampung, Indonesia, 2022, <https://doi.org/10.2991/assehr.k.220102.091>.

⁴⁴ Ibnu Sina Chandranegara et al., "Judicial Reform and Democratic Consolidation in Indonesia," *Jurnal Cita Hukum* 7, no. 3 (2019): 383–404, <https://doi.org/10.15408/jch.v7i3.12228>.

configuration that would better reflect constitutional norms and safeguard democratic accountability.⁴⁵

From an institutional perspective, this study contributes to the development of judicial independence theory, which asserts that electoral courts must have institutional autonomy from political and executive influences to function effectively.⁴⁶ At present, Bawaslu still faces limitations in independently enforcing its decisions, as its rulings often depend on its implementation by the KPU. This contrasts with Mexico's TEPJF, which possesses binding legal authority and operates independently of election organizers, enabling it to resolve disputes more swiftly and effectively. Therefore, this study reinforces the argument that an independent electoral judiciary is more effective than a fragmented system in ensuring electoral justice.

Practically, the primary implication of this study is the urgent need for reform in *Pilkada* dispute resolution through the establishment of a specialized electoral court. If the current system remains unchanged, fragmented jurisdiction among institutions will continue to hinder swift and fair resolution of electoral disputes. Thus, the formation of a specialized *Pilkada* judicial body is necessary by integrating the jurisdictions of MK, Bawaslu, and PTUN into a single independent institution with full authority over electoral disputes. This reform would enable Indonesia to adopt the principles of judicial effectiveness as demonstrated by Mexico's TEPJF, which has been proven to enhance legal certainty and efficiency in electoral dispute resolution.

Beyond institutional aspects, this study also highlights various weaknesses of the current *Pilkada* dispute resolution mechanism, particularly in terms of prolonged adjudication processes, inconsistent rulings, and weak enforcement capacity. Therefore, future research should further explore the ideal institutional model for an electoral judiciary by considering legal efficiency, institutional independence, and dispute resolution effectiveness within Indonesia's electoral democracy. Subsequent

⁴⁵ Novendri M Nggilu et al., "Indonesia's Constitutional Identity: A Comparative Study of Islamic Constitutionalism," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 2 (2024): 480–500.

⁴⁶ Armen Harutyunyan, "The Independence of Judiciary Within the Political Dimension," in *The Rule of Law in Europe*, ed. María Elósegui et al. (Springer International Publishing, 2021), https://doi.org/10.1007/978-3-030-56001-0_5.

research is essential to fill gaps in the academic literature and contribute substantially to institutional reforms in the electoral judiciary system.

One of the key aspects that requires further examination is the design of a specialized judicial body for *pilkada* disputes that can integrate the jurisdictions of MK, Bawaslu, and PTUN into a more cohesive and centralized system. A comparative study of Mexico's TEPJF and the Philippines' COMELEC demonstrated that an independent electoral judiciary with exclusive jurisdiction is more effective in ensuring legal certainty and electoral justice. Therefore, future research should delve deeper into selection mechanisms for electoral judges, institutional structures, and dispute resolution procedures that can be efficiently applied within Indonesia's legal framework.

Beyond institutional reform, further studies should explore the impact of implementing a specialized judicial body on the effectiveness of electoral dispute resolution. Empirical research using quantitative and qualitative approaches can be conducted to assess dispute resolution speed, electoral participant satisfaction, and the public acceptance of judicial decisions. This is crucial, considering that one of the primary weaknesses of the current system is the lengthy adjudication process and weak enforcement of rules. If a specialized judicial body can improve the efficiency of *Pilkada* dispute resolution, this could serve as a strong argument for policymakers to adopt institutional reforms.

Additionally, further research should examine the use of technology in electoral judiciary systems. Several countries have already begun judicial digitalization to enhance transparency and efficiency in resolving electoral disputes. For example, Germany's e-court system has proven to expedite judicial administration and improve accessibility for disputing parties. Thus, research in Indonesia could explore how AI and big data analytics could be employed to accelerate evidentiary analysis in *pilkada* disputes and ensure greater transparency in decision-making.

Future research should explore the political and social factors that influence the implementation of electoral judicial reforms. The establishment of a specialized electoral court is not solely a legal issue, but also involves political dynamics, including

resistance from political actors who may feel disadvantaged by a more independent judicial system. Therefore, research focusing on the sociopolitical aspects of electoral legal reform can help to design more realistic and widely accepted implementation strategies that accommodate the interests of various stakeholders.

Thus, future research should focus on the development of a more effective institutional model, empirical studies on the impact of electoral judicial reforms, integration of technology in electoral dispute resolution, and sociopolitical analyses of electoral judicial reform dynamics in Indonesia. A multidisciplinary approach that combines law, political science, and information technology will contribute significantly to strengthening electoral integrity and enhancing the legitimacy of Indonesia's democratic system.

5. Conclusion

This study reveals that the current mechanism for resolving regional head election (Pilkada) disputes in Indonesia remains fragmented, leading to legal uncertainty, inconsistent judicial decisions, and procedural inefficiency. The division of jurisdiction among the Constitutional Court (MK), the Election Supervisory Body (Bawaslu), and the State Administrative Court (PTUN) has resulted in overlapping authority and weakened institutional accountability. A comparative analysis of Mexico, the Philippines, and Germany indicates that an independent special electoral judiciary with exclusive jurisdiction is more effective in ensuring fair, transparent, and binding dispute resolutions.

The legal rationale for transferring jurisdiction from the Constitutional Court to a specialized electoral court is grounded in the principle of functional appropriateness and institutional alignment. The Constitutional Court was originally designed as a constitutional guardian (*guardian of the Constitution*), with its primary role being the norm control and protection of constitutional rights. However, the resolution of Pilkada disputes, especially those concerning vote-counting errors and administrative violations, requires fact-finding, evidentiary review, and procedural adjudication, which align more closely with specialized administrative or electoral tribunals rather than a constitutional court. Continuing to place such burdens on MK risks distorting its

function and weakening procedural efficiency.

Thus, the transfer of authority is not a downgrading of the MK's role, but a functional redistribution to ensure that each judicial institution operates within its intended constitutional mandate. Establishing a specialized electoral court— independent, integrated, and equipped with comprehensive jurisdiction would eliminate institutional fragmentation, strengthen legal certainty, and align dispute resolution mechanisms with the rule of law and democratic governance. Transparent judicial appointments, expedited procedures, and the use of digital adjudication technologies further reinforce the court's credibility. Therefore, legal and policy reforms must prioritize the creation of this specialized judicial framework to ensure that electoral integrity and constitutional justice are upheld in harmony.

References

- Abdullah, Abdullah. "The Establishment of Special Election Courts in Indonesia Based on the State Principles of Democratic Law." Paper presented at 9th Asbam International Conference (Archeology, History, & Culture In The Nature of Malay) (ASBAM 2021), Makassar, Indonesia. 2022. <https://doi.org/10.2991/assehr.k.220408.079>.
- Amancik, Amancik, Putra Perdana Ahmad Saifulloh, Zainal Amin Ayub, Sonia Ivana Barus, and Susi Ramadhani. "Choices of Law for Democratic Regional Head Election Dispute Resolution Institutions in Indonesia." *Jambura Law Review* 6, no. 2 (2024): 304–38. <https://doi.org/10.33756/jlr.v6i2.24792>.
- Angraini, Putri Aprilia, and Anna Erliyana. "REVIEW OF INDONESIAN CONSTITUTIONAL COURT DECISION NUMBER 135/PHP.BUP-XIX/2021." *Journal of Law and Policy Transformation* 7, no. 2 (2023): 121. <https://doi.org/10.37253/jlpt.v7i2.6761>.
- Anindyajati, Titis. "Polemik Tindak Lanjut Rekomendasi Bawaslu Dalam Perselisihan Hasil Pilkada Di Mahkamah Konstitusi." *Jurnal Adhyasta Pemilu* 6, no. 1 (2023): 28–37. <https://doi.org/10.55108/jap.v6i1.177>.
- Anshori, Ahmad Yani, and Landy Trisna Abdurrahman. "Constitutional Contestation of the Islamic State Concept in the Indonesian Parliament 1956-1959." *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 2 (2024): 278–316. <https://doi.org/10.18860/j-fsh.v16i2.29572>.
- Aris, Mohammad Syaiful. "Pembentukan Peradilan Khusus Penyelesaian Hasil Pemilihan Kepala Daerah Dalam Pelaksanaan Pemilu Serentak Nasional." *Media Iuris* 5, no. 3 (2022): 473–506. <https://doi.org/10.20473/mi.v5i3.34154>.

- Atwal, Manvi. "RULE OF LAW AND DEMOCRACY." *International Journal of Education Humanities and Social Science* 06, no. 01 (2023): 259–63. <https://doi.org/10.54922/IJEHSS.2023.0489>.
- Ayesha Hanum Nurrahmah, Fithriyatirrizqoh, and Moh Imam Gusthomi. "Blurring the Lines: An Analysis of Jurisdictional Overlap between General Courts and State Administrative Courts in Indonesia." *Arkus* 11, no. 1 (2024): 713–26. <https://doi.org/10.37275/arkus.v11i1.663>.
- Chandranegara, Ibnu Sina, Syaiful Bakhri, and Muhammad Ali. "Judicial Reform and Democratic Consolidation in Indonesia." *Jurnal Cita Hukum* 7, no. 3 (2019): 383–404. <https://doi.org/10.15408/jch.v7i3.12228>.
- Dachi, Janvencius Valerius Nifowa'azaro, Rina Shahriyani Shahrullah, and Elza Syarief. "REVIEWING THE CONSTITUTIONAL RIGHTS ON DEMOCRATIC ELECTION PRACTICES IN INDONESIA AND THE PHILIPPINES." *Justitia et Pax* 39, no. 1 (2024): 1–53. <https://doi.org/10.24002/jep.v39i1.6229>.
- Dinata, Ari Wirya, and M. Yusuf Akbar. "Mitigation of Indonesia Concurrent Election Dispute Settlement in 2024." Paper presented at Universitas Lampung International Conference on Social Sciences (ULICoSS 2021), Bandar Lampung, Indonesia. 2022. <https://doi.org/10.2991/assehr.k.220102.055>.
- Disemadi, Hari Sutra. "Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies." *Journal of Judicial Review* 24, no. 2 (2022): 289. <https://doi.org/10.37253/jjr.v24i2.7280>.
- Erick, Benni, and M. Ikhwan. "Mekanisme Penyelesaian Sengketa Pemilihan Umum Di Indonesia." *Jurnal Analisis Hukum* 5, no. 2 (2022): 203–19. <https://doi.org/10.38043/jah.v5i2.3763>.
- Hantoro, Bimo Fajar. "Pembatasan Yudisial Dan Perluasan Kewenangan Mahkamah Konstitusi Dalam Memutus Sengketa Hasil Pilkada." *Media Iuris* 7, no. 1 (2024): 101–30. <https://doi.org/10.20473/mi.v7i1.41871>.
- Harutyunyan, Armen. "The Independence of Judiciary Within the Political Dimension." In *The Rule of Law in Europe*, edited by María Elósegui, Alina Miron, and Iulia Motoc. Springer International Publishing, 2021. https://doi.org/10.1007/978-3-030-56001-0_5.
- Harvey, Cole J. "Can Courts in Nondemocracies Deter Election Fraud? De Jure Judicial Independence, Political Competition, and Election Integrity." *American Political Science Review* 116, no. 4 (2022): 1325–39. <https://doi.org/10.1017/S0003055422000090>.
- Hasibuan, Syaiful Asmi. "SISTEM PEMILIHAN UMUM DALAM KAITAN DENGAN NEGARA DEMOKRASI." *Warta Dharmawangsa* 17, no. 2 (2023): 602–9. <https://doi.org/10.46576/wdw.v17i2.3174>.

- Hermanto, Bagus, and Nyoman Mas Aryani. "Quo Vadis Specialised Courts in Indonesia within Constitutional Court Decisions Confines." *Jurnal Penelitian Hukum De Jure* 23, no. 4 (2023): 403. <https://doi.org/10.30641/dejure.2023.V23.403-418>.
- Huh, Jinsung. "A Constitutional Review of Election Lawsuits: With a Focus on the Adjustment of the Institution in Charge." *Korean Constitutional Law Association* 28, no. 4 (2022): 39–72. <https://doi.org/10.35901/kjcl.2022.28.4.39>.
- Jamaluddin, Jamaluddin. "THE SETTLEMENT OF ELECTION DISPUTES BY BAWASLU REVIEWED FROM THE INDONESIAN JUSTICE SYSTEM." *Interdisciplinary Social Studies* 2, no. 2 (2022): 521–31. <https://doi.org/10.55324/iss.v2i2.121>.
- Jennifer, Graceyana, Jenaya Adra Rumondor, and Ryan Giovanni Christianto. "Kedudukan Bawaslu Dalam Menangani Perselisihan Hasil Pemilu : Perspektif Electoral Dan Constitutional Democracy." *Awasia: Jurnal Pemilu Dan Demokrasi* 2, no. 1 (2022): 34–45. <https://doi.org/10.55108/awasia.v2i1.113>.
- Kam, Christopher, Anthony M. Bertelli, and Alexander Held. "The Electoral System, the Party System and Accountability in Parliamentary Government." *American Political Science Review* 114, no. 3 (2020): 744–60. <https://doi.org/10.1017/S0003055420000143>.
- Kurnia, Kamal Fahmi. "Menakar Penegakan Hukum Praktik Politik Uang (Money Politic) Dalam Mewujudkan Keadilan Pemilu (Electoral Justice)." *LITIGASI* 25, no. 2 (2024): 80–100. <https://doi.org/10.23969/litigasi.v25i2.17313>.
- Kusdarini, Eny, Anang Priyanto, Sri Hartini, and Suripno Suripno. "Roles of Justice Courts: Settlement of General Election Administrative Disputes in Indonesia." *Heliyon* 8, no. 12 (2022): e11932. <https://doi.org/10.1016/j.heliyon.2022.e11932>.
- Madril, Oce. "THE AUTHORITY OF ADMINISTRATIVE COURT IN SETTLING THE DISPUTES OVER ELECTION PROCESS IN INDONESIA." *Yustisia Jurnal Hukum* 8, no. 3 (2020): 365. <https://doi.org/10.20961/yustisia.v8i3.35553>.
- Miller, Russell. "Germany vs. Europe: The Principle of Democracy in German Constitutional Law and the Struggle for European Integration." *SSRN Electronic Journal*, ahead of print, 2013. <https://doi.org/10.2139/ssrn.2309620>.
- Negara, Tunggul Ansari Setia. "Normative Legal Research in Indonesia: Its Originis and Approaches." *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (2023): 1–9. <https://doi.org/10.22219/aclj.v4i1.24855>.
- Nggilu, Novendri M, Wahidullah, Novi Noviawati, and Dian Ekawaty Ismail. "Indonesia's Constitutional Identity: A Comparative Study of Islamic Constitutionalism." *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 2 (2024): 480–500.
- Nggilu, Novendri Mohamad, Wahidullah Wahidullah, Evi Noviawati, and Dian Ekawaty Ismail. "Indonesia's Constitutional Identity: A Comparative Study of Islamic

Constitutionalism." *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 2 (2024): 480–500. <https://doi.org/10.18860/j-fsh.v16i2.29851>.

Nurlaily, Nurlaily, Agusta R. Minin, and Dinesha Samararatne. "The Substantive Justice in Regional Elections: A Philosophical and Sociological Comparison of Asian, European, and African Countries." *Jurnal IUS Kajian Hukum Dan Keadilan* 13, no. 1 (2025): 107–27. <https://doi.org/10.29303/ius.v13i1.1656>.

Palguna, I Dewa Gede, and Bisariyadi Bisariyadi. "The Power of Constitutional Court to Settle Disputes on Local Election Results." *Jurnal Konstitusi* 20, no. 1 (2023): 1–18. <https://doi.org/10.31078/jk2011>.

Pradinata, Clara Agustine, Ivana Kurniawan, Michelle Abigail Suganda, and Ferdiansyah Prawira. "Juridical Study of Administrative Violations in General Elections in Accordance with Bawaslu Regulation of the Republic of Indonesia No. 8 of 2022." *AURELIA: Jurnal Penelitian Dan Pengabdian Masyarakat Indonesia* 2, no. 2 (2023): 1259–64. <https://doi.org/10.57235/aurelia.v2i2.755>.

Priyambudi Sulistiyanto. "Local Elections and Local Politics in Indonesia: Emerging Trends." *Journal of Asian Social Science Research* 2, no. 2 (2020): 135–58. <https://doi.org/10.15575/jassr.v2i2.23>.

Risky, Saiful, Sholahuddin Al-Fatih, and Mabarroh Azizah. "Political Configuration of Electoral System Law in Indonesia from State Administration Perspective." *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi*, June 30, 2023, 119–30. <https://doi.org/10.24090/volkgeist.v6i1.7940>.

Romano, Andrea. "Constitutional Courts Dealing with Electoral Systems: A Comparative Look at Constitutional Adjudication on Electoral Equality." *Revista de Investigações Constitucionais* 10, no. 2 (2023): 232. <https://doi.org/10.5380/rinc.v10i2.89827>.

Satriawan, M. Iwan, Yhanu Setiawan, and Yusnani Hasyimzoem. "Special Judicial Reform Election in Indonesia." Paper presented at Universitas Lampung International Conference on Social Sciences (ULICoSS 2021), Bandar Lampung, Indonesia. 2022. <https://doi.org/10.2991/assehr.k.220102.091>.

Siboy, Ahmad. "Constitutionality of Constitutional Settlement of Disputes for the Election of Local Heads." *Jurnal Cakrawala Hukum* 13, no. 2 (2022): 117–27. <https://doi.org/10.26905/idjch.v13i2.6457>.

Siregar, Fritz. "Election Supervision in Indonesia: Options for Reforming the General Election Supervisory Agency." In *Constitutional Democracy in Indonesia*, 1st ed., edited by Melissa Crouch. Oxford University Press Oxford, 2022. <https://doi.org/10.1093/oso/9780192870681.003.0008>.

Suparto, Suparto, Ellydar Chaidir, Ardiansyah Ardiansyah, and Jose Gama Santos. "Establishment of Electoral Court in Indonesia: Problems and Future Challenges."

Journal of Indonesian Legal Studies 8, no. 2 (2023).
<https://doi.org/10.15294/jils.v8i2.72316>.

Supriyadi, and Andi Intan Purnamasari. "Redesign of Administrative Violation Handling at Bawaslu Post Determination of Election Results." *Jurnal Konstitusi* 20, no. 1 (2023): 159–78. <https://doi.org/10.31078/jk2019>.

Susilo, Tri. "DESIGN OF SPECIAL JUSTICE AGENCY ELECTION CHAIN IN INDONESIA." *UNTAG Law Review* 1, no. 1 (2017): 68. <https://doi.org/10.36356/ulrev.v1i1.524>.

Syafriadi, and Selvi Harvia Santri. "Analisis Peran Badan Pengawas Pemilu Dalam Penegakan Hukum Pemilu." *REFORMASI* 13, no. 1 (2023): 42–47. <https://doi.org/10.33366/rfr.v13i1.3845>.

Yakub, Sandra Leoni Prakasa Yakub, and Qurrata Ayuni. "Legal Standing Provision to The Community on Disputes Over The Results of Regional Elections With A Single Candidate In Constitutional Court." *JASSP* 2, no. 1 (2022): 65–75. <https://doi.org/10.23960/jassp.v2i1.60>.

Yunus, Nur Rohim, Fitriyani Zein, and Amrizal Siagian. "Civil Law System in Indonesia and Its Comparison with Other Legal Systems." *SALAM: Jurnal Sosial Dan Budaya Syar-i* 9, no. 5 (2022): 1629–50. <https://doi.org/10.15408/sjsbs.v9i3.26168>.