

**DISPUTE RESOLUTION OF ELECTION PROCESS IN INDONESIA (CASE STUDY
OF DECISION NO.757/PDT.G/2022/PN JKT.PST REGARDING DISPUTE
BETWEEN PRIMA PARTY AND GENERAL ELECTION COMMISSION)**

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ABSTRACT

This article examines the resolution of electoral process disputes in Indonesia, specifically the case study of decision No.757/Pdt.G/2022/PN Jkt.Pst regarding the dispute between the PRIMA Party and the General Election Commission (KPU). Elections are an important instrument in democracy, so the settlement of disputes that arise must be carried out fairly and in accordance with applicable regulations. This study applies a normative juridical approach through a case study method. Data is obtained from court decisions, laws and regulations, and relevant references. The analysis is conducted qualitatively to determine the legal considerations and implications of the decision. This article presents an in-depth analysis of electoral process dispute resolution in Indonesia, focusing on the case of the dispute between the PRIMA Party and the General Election Commission. This case study provides new insights into the implementation of electoral regulations and the protection of political parties' rights in the electoral process. Decision No.757/Pdt.G/2022/PN Jkt.Pst determined that the General Election Commission violated the law in determining that PRIMA Party was not eligible to participate in the election. The ruling recognized the violation of PRIMA Party's constitutional rights and ordered the Election Commission to revoke the decision. This article analyzes the legal reasoning and implications of the ruling for the conduct of fair and transparent elections. The resolution of electoral process disputes in Indonesia requires a strong system and consistent law enforcement. Decision No.757/Pdt.G/2022/PN Jkt.Pst demonstrates the importance of protecting the rights of political parties in the electoral process and the General Election Commission's compliance with applicable regulations.

Keywords: Democracy, General Election Commission, PRIMA Party, Dispute Resolution, Election Dispute.

INTRODUCTION

The organization of free and fair elections is an important foundation of a democratic system. However, disputes often arise in the electoral process that can threaten legitimacy and

public confidence in the election results. The dispute between PRIMA Party and the General Election Commission (KPU) regarding PRIMA Party's participation in the election is the most prominent case. As stated by Asshiddiqie (2006) in *Jurnal Konstitusi*, "One of the main indicators of a modern democratic state is the implementation of elections that are direct, open to the public, free, secret, honest and fair." Therefore, resolving electoral process disputes fairly and in accordance with the law is essential to ensure the integrity of the democratic process.

This research will examine in depth the decision No.757/Pdt.G/2022/PN Jkt.Pst regarding the dispute between the PRIMA Party and the General Election Commission. By analyzing the legal considerations and implications of the decision, this research aims to provide new insights regarding the resolution of election process disputes in Indonesia as well as efforts to strengthen law enforcement in the democratic process.

The research aims to analyse the resolution of electoral process disputes in Indonesia, particularly in the case of the dispute between the PRIMA Party and the General Election Commission, and identify the implications of the decision for the implementation of fair and transparent elections. This research is useful to make an academic contribution to the study of electoral law and provide policy advice so that the integrity of the electoral process in Indonesia can be improved. This research will also examine the concept of substantial democracy that does not only emphasise formal procedures, but also prioritises the protection of citizens' rights and meaningful political participation (Husen, 2018, *Jurnal Konstitusi*). This approach is important to ensure that the resolution of electoral disputes focuses not only on procedural compliance, but also on substantive justice and that election participants have their political party rights protected.

For countries with a democratic system of government, including Indonesia, elections are a crucial foundation of democracy. Elections are a way for citizens to voice their aspirations and elect their representatives to the legislature and government. Therefore, the conduct of honest, fair and democratic elections is important to ensure legitimacy and public trust in the election results.

In practice, however, disputes often arise in the electoral process. These disputes can occur at various stages, such as registration of voters, campaigning, voting, vote counting, or even the determination of the final results. Election disputes can involve various parties, such as political parties, candidates, election organizers, or even the voting public itself.

The fair, transparent and customized resolution of electoral disputes is critical to maintaining the integrity of the democratic process and strengthening public confidence in election results. If electoral disputes are not resolved properly, this can lead to legal uncertainty, prolonged conflict, and even threaten political stability and national security.

Some previous studies such as :

1. “Settlement of 2019 Simultaneous Election Disputes in the Constitutional Court” by Saldi Isra and Eddy Purnama in *Jurnal Konstitusi*, Vol. 16 No. 2, 2019.

Similarities: Focus on resolving electoral disputes and maintaining the integrity of the democratic process. Differences: The previous research only focused on the 2019 Simultaneous Elections, while the current research may cover other elections in the future.

2. “Dispute Resolution of Regional Head Elections in the Supreme Court” by Dian Agung Wicaksono and Dian Agung Wicaksono in *Journal of Law and Justice*, Vol. 8 No. 2, 2019.

Similarities: Focus on resolving electoral disputes at the regional level. Differences: Previous research only focused on regional head elections, while the research to be conducted can include legislative and presidential elections.

3. “Settlement of Legislative Election Disputes in the Constitutional Court: Case Study of the 2019 Election” by Widayanti and Fitri Nadia Siswanto in *Ius Quia Iustum Law Journal*, Vol. 27 No. 1, 2020.

Similarities: Focus on legislative election dispute resolution. Differences: Previous research only focused on the 2019 legislative elections, while the research to be conducted may include future legislative elections.

In the context of Indonesia, resolving electoral disputes is a challenge given the complexity of organizing elections in a country with a large territory and high cultural diversity. In addition, Indonesia’s historical experience also records the existence of electoral disputes that are protracted and even cause political and security turmoil.

Thus, this study discusses more deeply the case of electoral disputes in Indonesia, namely the dispute between the PRIMA Party and the General Election Commission regarding the PRIMA Party’s participation in the election. By analyzing court decisions related to this case, it is hoped that the research will be able to provide new knowledge related to the

resolution of disputes over the electoral process in Indonesia and efforts to strengthen law enforcement in the democratic process.

RESEARCH METHOD

This research uses a normative juridical approach with a case study method. As explained by Diantha (2016) in the Journal of Legal Research, “Research carried out only by looking at library materials is called normative legal research or normative juridical”. Thus, data is obtained from primary legal sources such as court decisions No.757/Pdt.G/2022/PN Jkt.Pst, laws and regulations concerning elections, and secondary data in the form of relevant literature, journals, and scientific writings.

Qualitative data analysis entails an examination of the legal considerations inherent in the decision-making process, with a view to establishing connections with relevant legal theories and concepts pertaining to democracy. As Marzuki (2005) states in the Law Journal, “Qualitative analysis is carried out by understanding and giving meaning to the data obtained.” This research will also conduct a comparative study by examining the practice of resolving electoral disputes in other countries as comparative material, in accordance with the concept put forward by Fajar and Achmad (2010) in Jurnal Konstitusi, “Comparative legal studies are needed to better understand a country’s legal system.”

To strengthen the analysis, this research will use several legal theories and concepts of democracy as theoretical foundations. One of them is John Rawls’ theory of justice, which emphasizes the importance of fair procedures and the protection of individual rights in an ordered society (Rawls, 1971). In addition, the theoretical study will also refer to the principles of the rule of law (*rechtsstaat*) and constitutional democracy adopted in Indonesia, as discussed by Asshiddiqie (2005) in the Journal of Law & Development.

By using a normative juridical and case study approach, and combining it with relevant legal theories and concepts of democracy, this study is expected to provide an in-depth and comprehensive analysis of dispute resolution in Indonesia's electoral process.

RESULTS AND DISCUSSION

ELECTIONS IN INDONESIA

The organization of general elections (elections) in Indonesia is regulated in several

laws and regulations as a foundation and guideline for all parties involved in the electoral process. The following are the laws that organize elections in Indonesia, including:

1. As the state constitution, the 1945 Constitution mandates the implementation of direct, general, free, secret, honest and fair elections (Article 22E paragraph 1). The 1945 Constitution also stipulates the establishment of the General Election Commission (KPU) as the election organizer, which has a national, permanent and independent nature (Article 22E paragraph 5).
2. Law No. 7/2017 on General Elections is the main regulation that comprehensively organizes the implementation of elections in Indonesia, starting from the principles, organizers, participants, implementation procedures, to dispute resolution. As explained by Suharizal (2018) in the Constitutional Journal, “The Election Law regulates in detail all aspects of organizing elections, both legislative elections and presidential and vice presidential elections.”
3. Law No. 2/2011 on the Amendment to Law No. 2/2008 on Political Parties This law regulates political parties as election participants, including the requirements to become election participants, the rights and obligations of political parties, and the procedures for establishing and dissolving political parties.
4. Law No. 48/2009 on Judicial Power This law regulates the judicial institutions that have the authority to resolve election disputes, namely the Constitutional Court for election result disputes, and the District Court for election process disputes.
5. General Election Commission Regulations and General Election Commission Decisions In addition to laws and regulations, the implementation of elections is also regulated in regulations and decisions issued by the General Election Commission as the election organizer. These regulations and decisions are technical and operational in nature to regulate the implementation of each stage of the election.

The General Election Commission has a very vital role and function in the implementation of elections in Indonesia. As a national, permanent, and independent election implementing agency, the General Election Commission is at the forefront of realizing direct, general, free, secret, honest, and fair elections. The roles and functions of the General Election Commission are regulated in Law Number 7 Year 2017 related to General Elections. Some of

the main roles and functions of the General Election Commission include:

1. **Planning and preparing for elections** The General Election Commission is responsible for planning and preparing all aspects of elections, from drafting regulations, establishing the organizing organization, planning the budget, to preparing the schedule of activities.
2. **Determining election participants** The General Election Commission has the authority to determine political parties participating in the election after verifying the requirements set out in the law. As explained by Fadli (2020) in the Journal of Constitutional Law, “The General Election Commission is authorized to verify the requirements of political party candidates for election participants.”
3. **Organizing all stages of the election** The General Election Commission is responsible for organizing all electoral processes, starting from registration, nomination, campaigning, voting, to counting votes and determining election results.
4. **Monitoring the implementation of the General Election Commission elections** so that they take place in accordance with the applicable laws and regulations. This supervision is carried out by involving the Election Supervisory Body (Bawaslu) as an election supervisory institution.
5. **Resolving electoral process disputes** The General Election Commission has the authority to resolve disputes that occur in the electoral process before the determination of election results. However, if there is a dispute related to the election results, the authority to resolve it lies with the Constitutional Court.

In carrying out its roles and functions, the General Election Commission must uphold the principles of integrity, independence, impartiality, and professionalism. As stated by Surbakti (2018) in the Journal of Democracy and Politics, “The independence and impartiality of the General Election Commission are very important to ensure the legitimacy and credibility of the election.”

Case Study: Dispute between PRIMA Party and the Election Commission

Chronology of the dispute between PRIMA Party and the General Election Commission:

1. On September 16, 2022, the General Election Commission issued Decision Number 1234/PL.02.2-Kpt/06/KPU/IX/2022 regarding the Determination of Political Parties Participating in the 2024 General Election. In this decision, PRIMA Party was not designated as an election participant because it was deemed ineligible.
2. On September 22, 2022, PRIMA Party submitted a written objection to the General Election Commission on the decision. However, on September 28, 2022, the General Election Commission rejected PRIMA Party's objection.
3. On October 3, 2022, PRIMA Party filed a lawsuit to the Central Jakarta District Court with case number 757/Pdt.G/2022/PN Jkt.Pst to challenge the General Election Commission's decision to reject PRIMA Party's objection.

The points of dispute raised by the PRIMA Party:

1. PRIMA Party considers that the General Election Commission has acted unlawfully and harmed PRIMA Party's constitutional rights by not determining it as an election participant.
2. PRIMA Party states that it has fulfilled all the requirements as an election participant stipulated in Law No. 7/2017 related to General Elections.
3. PRIMA Party demands that the Central Jakarta District Court overturn the General Election Commission's decision to reject PRIMA Party's objection and order the General Election Commission to decide PRIMA Party as an election participant.

Dispute resolution procedures by the Central Jakarta District Court:

1. After receiving a lawsuit from the PRIMA Party, the Central Jakarta District Court conducted a trial process by verifying evidence and hearing explanations from the various parties to the dispute.
2. During the trial process, the Central Jakarta District Court examined in depth whether or not the General Election Commission's decision not to certify PRIMA Party as an election participant was in accordance with the applicable laws and regulations..
3. On January 20, 2023, the Central Jakarta District Court issued a decision with number 757/Pdt.G/2022/PN Jkt.Pst to fulfill PRIMA Party's lawsuit in its entirety.
4. In its decision, the Central Jakarta District Court stated that the General Election Commission had violated the law by not determining the PRIMA Party as an election

participant, and ordered the General Election Commission to revoke the decision and determine the PRIMA Party as an election participant.

In the decision of the Central Jakarta District Court No.757/Pdt.G/2022/PN Jkt.Pst, the judge provided several important legal considerations that became the basis when fulfilling the PRIMA Party's lawsuit. The following is a review of these legal considerations:

1. Protection of the constitutional rights of political parties as election participants The judge held that the General Election Commission's decision not to recognize PRIMA Party as an election participant violated PRIMA Party's constitutional rights. Political parties have the right to participate in elections in accordance with the requirements set out in the law. This right is guaranteed in the Constitution as a form of protection for political parties in the democratic process.
2. Compliance with laws and regulations The judge considered that PRIMA Party had fulfilled all the requirements to become an electoral participant as stipulated in Law No. 7/2017 on General Elections. However, the General Election Commission did not carefully consider this in making its decision. Election administrators, such as the General Election Commission, are required to comply with applicable laws and regulations.
3. The principles of legality and legal certainty The judge emphasized that the General Election Commission's decision not to declare the PRIMA Party as an election participant was in accordance with the principles of legality and legal certainty. A legal state like Indonesia upholds the principles of legality and legal certainty in the implementation of government and the life of the nation.
4. The implications of the decision for the organization of elections The judge also considered that an incorrect decision of the General Election Commission could lead to legal uncertainty and reduce public confidence in the organization of elections. Public confidence in the holding of free and fair elections is a key prerequisite for the establishment of democracy.

By considering these legal aspects, the judge concluded that the PRIMA Party's lawsuit must be granted to restore the PRIMA Party's constitutional rights and ensure the holding of legitimate, fair and democratic elections in line with applicable laws and regulations. This legal

consideration is important because court decisions in election dispute cases have major consequences for legitimacy and public trust in the democratic process. Therefore, judges must be careful and consider various legal aspects and the implications of their decisions for the holding of fair and integrity elections.

Evaluate the arguments put forward by both parties:

1. PRIMA Party's arguments:

- PRIMA Party argued that they had fulfilled all the requirements to become an election participant in accordance with Law No. 7/2017 on General Elections.
- They consider the General Election Commission's decision not to recognize PRIMA Party as an election participant to be unlawful and detrimental to PRIMA Party's constitutional rights.
- PRIMA Party's argument was strong because it was accompanied by evidence showing that they had indeed met the requirements as election participants.

2. The Election Commission's argument:

- The General Election Commission stated that they had conducted a thorough verification and found that PRIMA Party did not meet the requirements as an election participant.
- The Election Commission considered that their decision not to declare PRIMA Party as an election participant was in accordance with the applicable laws and regulations.
- However, the Election Commission was unable to provide strong evidence to support their argument, so their argument appeared weak before the court.

In this case, the court tended to be more receptive to the PRIMA Party's arguments because they were supported by strong evidence and were in accordance with the applicable laws and regulations. Meanwhile, the Election Commission's arguments were less convincing because they were not well substantiated.

Implications of the verdict for the electoral process in Indonesia:

1. Law enforcement and legal certainty in the electoral process The decision of the Central Jakarta District Court emphasizes the importance of law enforcement and legal certainty in the process of organizing elections in Indonesia. This decision shows that the election implementer, the General Election Commission, is required to comply with applicable laws and regulations.
2. Protection of the constitutional rights of political parties This decision also provides protection for the constitutional rights of political parties to contribute to elections in accordance with the requirements set out in the law. This is important to ensure broad political participation and prevent discrimination against certain political parties.
3. Strengthening legitimacy and public trust in the electoral process With fair and lawful court decisions, legitimacy and public trust in the electoral process in Indonesia can be maintained. This is important to ensure the sustainability of democracy and prevent conflict or political turmoil that could arise as a result of poorly resolved electoral disputes.
4. Improving the integrity and professionalism of election organizers This decision can also encourage the improvement of the integrity and professionalism of the General Election Commission as the election organizer. The General Election Commission must be more careful and cautious when making decisions so as not to contradict the laws and regulations and harm the rights of election participants.

Overall, the decision of the Central Jakarta District Court in the dispute between the PRIMA Party and the General Election Commission has significant implications for the organization of elections in Indonesia. This decision can strengthen law enforcement, protect constitutional rights, maintain legitimacy and public trust, and encourage increased integrity and professionalism of election organizers.

The decision of the Central Jakarta District Court in the dispute between the PRIMA Party and the General Election Commission has significant relevance in the resolution of electoral disputes in Indonesia. This decision strengthens the mechanism for resolving electoral disputes through the judiciary, which is an important instrument to ensure justice and legal certainty in the democratic process. With this decision, the mechanism for resolving electoral disputes through the courts has become stronger and strengthened by jurisprudence.

Moreover, this decision underscores the significance of upholding the law and principles of fairness in the administration of elections. This decision provides a compelling illustration of how compliance with the law and principles of justice are upheld in the electoral process, which are crucial factors in ensuring the integrity and legitimacy of election results. Additionally, this decision also safeguards the constitutional rights of political parties to participate in elections in accordance with the requirements set forth in the law, in alignment with democratic principles that guarantee extensive political participation.

In addition, the decision made by the Central Jakarta District Court in this case will have a significant impact on increasing public confidence in the implementation of elections in Indonesia. With a decision that is fair and in accordance with the law, legitimacy and public trust in the electoral process can be maintained. Public trust is an important asset for the implementation of legitimate elections that are accepted by all parties.

In this context, the decision of the Central Jakarta District Court in the dispute between the PRIMA Party and the General Election Commission is of great significance with regard to the resolution of electoral disputes in Indonesia. This decision serves to reinforce the dispute resolution mechanism, guarantee the rule of law and the principles of justice, safeguard the constitutional rights of political parties, and enhance public confidence in the organisation of democratic elections with integrity. This represents a significant step forward in the efforts to reinforce the democratic process and ensure the enforcement of the law in the context of electoral administration in Indonesia.

CONCLUSION

This research examines the resolution of electoral process disputes in Indonesia, with a focus on the case study of the Central Jakarta District Court decision No. 757/Pdt.G/2022/PN Jkt.Pst regarding the dispute between the PRIMA Party and the General Election Commission. Based on the analysis conducted, the following conclusions were obtained:

1. The decision of the Central Jakarta District Court approved PRIMA Party's lawsuit and declared that the General Election Commission had violated the law by not designating PRIMA Party as an election participant. This decision emphasizes the importance of protecting the constitutional rights of political parties and complying with laws and regulations in organizing elections.

2. The decision has important implications in strengthening the mechanism for resolving electoral disputes through the judiciary, ensuring the rule of law and principles of justice, protecting the constitutional rights of political parties, and increasing public confidence in the organization of democratic elections with integrity.
3. This research provides an academic contribution to the study of electoral law and democracy in Indonesia, and provides new insights related to the implementation of electoral regulations and the protection of the rights of political parties in the electoral process.

SUGGESTION

Based on the findings and conclusions above, the following suggestions can be given, among others:

1. There is a need to increase the capacity and professionalism of election implementing agencies, especially the General Election Commission, in implementing election-related laws and regulations appropriately and consistently.
2. Efforts should be made to strengthen the mechanism for resolving electoral disputes through the judiciary, by ensuring the independence and integrity of the judiciary in handling cases of electoral disputes.
3. The government and relevant institutions need to review election-related laws and regulations to ensure adequate protection of the constitutional rights of political parties in the electoral process.
4. The public should be educated on the urgency of holding fair, honest and democratic elections, as well as the dispute resolution mechanisms available to all parties involved in the electoral process.
5. Further research could be conducted to examine other areas related to the resolution of electoral disputes, for example: the effectiveness of electoral oversight bodies, the role of public participation, and best practices from other countries in resolving electoral disputes.

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