

# ANALYSIS OF THE AUTHORITY OF THE CONSTITUTIONAL COURT IN GENERAL ELECTION RESULT DISPUTE CASES (STUDY OF CONSTITUTIONAL COURT RULING NUMBER 1/PHPU.PRES-XXII/2024 AND 2/PHPU.PRES-XXII/2024)

Dora Mustika<sup>1</sup>, M. Dani Fariz Amrullah. D<sup>2</sup>, Sayyidah Sekar Dewi Kulsum<sup>3</sup>

## Abstract

*This study serve analysis deep about authority Court Constitution (MK) in handle case The General Election Results Dispute (PHPU) is based on two decisions related , ie Court Constitution Numbers 1/PHPU.PRES-XXII/2024 and 2/PHPU.PRES-XXII/2024. Research methods use approach descriptive analytical with collect primary data from Constitutional Court decisions and secondary data from literature related . Analysis results show that the Constitutional Court uses his authority with careful and thorough in assess the selection process general and results , as well ensure obedience to provision constitution and applicable laws. Second decision the give description about how the Constitutional Court considers evidence and arguments submitted by the parties to the dispute , as well as drop decisions based on principle sovereignty law and democracy. Implications from the Constitutional Court's decision against enforcement democracy and sovereignty law is very important in strengthen the integrity of the political process and safeguarding balance power between state institutions . In conclusion , handling PHPU case by MK plays vital role in guard stability politics , strengthen democracy , and ensuring obedience to rule law in system Indonesian politics.*

**Keywords:** *Court Constitution, Election Results Dispute General, Verdict Court Constitution.*

## I. INTRODUCTION

Existence Court Constitution The Republic of Indonesia is consequence from principle supremacy the constitution according to Hans Kelsen for look after it required court special To use ensure suitability rule more laws low with rule the law on it . View the is consequence from proposition a hierarchy of legal norms that culminates to constitution as *the supreme law of the land*. From the side law, existence Court Constitution is one of the consequence change from the supremacy of the MPR became supremacy constitution , principle of unitary state , principle democracy and the principle of the rule of law. Basically, formation Court Constitution need done Because nation We do change fundamental on the 1945

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<sup>1</sup> Faculty of Law, Universitas Lampung, [dora.mustika@fh.unila.ac.id](mailto:dora.mustika@fh.unila.ac.id)

<sup>2</sup> Faculty of Sharia, UIN Raden Intan Lampung, [danifariz@radenintan.ac.id](mailto:danifariz@radenintan.ac.id)

<sup>3</sup> Faculty of Law, Universitas Lampung, [sayyidah.sekar@fh.unila.ac.id](mailto:sayyidah.sekar@fh.unila.ac.id)

Constitution. Amendment the make nation We has adopt principles new in system constitutionalism , that is among other principles separation power and " *checks and balances* " as replacement system supremacy current parliament previously. As consequence change that, then need held mechanism For disconnect dispute authority constitutional possibility happen; necessity role the law and judges can control processes and products decisions politics; and also necessary mechanism For decide various disputes that arise that are not can resolved through normal judicial processes, such as dispute results elections and demands dissolution something party politics.

Since the Reformation, the democratization process in Indonesia has been go through significant journey, with election general as one of the instrument main in determine representation politics. However, no seldom happen dispute results election general (PHPU) which gives rise to dissatisfaction and tension politics in society . In context here, Court Constitution hold role important as authorized institution finish dispute related results election general. In 2024, the Court Constitution issued two decisions related dispute results election general , that is Decision Number 1/PHPU.PRES-XXII/2024 and Decision Number 2/PHPU.PRES-XXII/2024. There is something different from decision this is what happened highlight public . Appearance *dissenting opinion* by several Court judges Constitution which throughout the history of elections in Indonesia not yet Once happen previously .

Authority Court Constitution arranged in the 1945 Constitution, especially Article 24C paragraphs (1) and (2), which states four authority and one obligation . Authority the covers review of the law against the 1945 Constitution, completion dispute between state institutions , handling dissolution party politics , and settlement dispute results election . Court Constitution only authorized evaluate constitutionality a law against the 1945 Constitution in judicial review cases . Decision Court Constitution on testing of the law against the 1945 Constitution has been reach a significant number , reaching 1573 decisions with a percentage of 46% of the total decisions issued until moment This .<sup>4</sup>

As for who became focus discussion in study This is authority Court Constitution in handle PHPU cases, as well How implementation authority This reflected in decisions the. Study This analyze How legal provisions against *Dissenting Opinion* by a Court Judge Constitution in decide case Numbers 1/PHPU.PRES-XXII/2024 and 2/PHPU.PRES-XXII/2024? And what implications decision Court Constitution to enforcement democracy and sovereignty law in context handling PHPU case ?

Types of research This Normative Legal Research , is method research conducted with method analyze material References or secondary data consisting

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<sup>4</sup> Ricky Julius RivaldoAta Banafanu et al. , *Authority Of The Constitutional Court In Resolving General Election Disputes In Indonesia*

from text law, decision court, documents official , and literature law other.<sup>5</sup> Study This also called, research doctrinal law, often involve conception law as what is written in regulation legislation (*law in books*) or as rule or the norm that has become benchmark behave considered human proper .<sup>6</sup> According to Peter Mahmud Marzuki that study law normative focused on digging rules, principles, and doctrines relevant laws For solve problem facing the law. This reflects an approach that centers on written laws and principles underlying law system law a country.<sup>7</sup>

Study This is study law normative practice with use ingredients literature as main data For analyze case, without do study field. Approach used is study law purposeful library For dig principles law , analyze systematic law , as well research synchronization between regulations related laws. In research this, writer do analysis deep to various document law, incl law, decision courts , and literature law other. The goal is For find rule laws, principles laws, and doctrines relevant laws in handle cases studied. Result of study This expected can give significant contribution to understanding and development law in the field under study, as well give more views comprehensive to issue relevant law .

## II. DISCUSSION

### Role of the Court Constitution in Legal System and Democracy

Court Constitution, with his role as a " negative legislator" as it has been mentioned previously, is practice shaper known laws since mid 20th century . Therefore that, formation Constitution start Lots depend on the role of constitutional judges, apart from parliament . Therefore that's a necessity For study and explore decision testing that changes legal norms in Constitution grows and develops everywhere throughout the world, especially in democratic rule of law countries or constitutional democracies.

Role of the Court Constitution (MK) as " negative legislator" and its implications in formation Constitution :

- 1) Role as *Negative Legislator*: MK's role as a " negative legislator" because own power For reject or cancel considered law No in accordance with constitution. This means MK has influence big in forming Constitution with ensure suitability they with principles constitution. Practice Since Mid 20th Century The concept of the Constitutional Court as a " negative legislator" has been There is since mid 20th century . This matter signifies evolution the role of constitutional judges in the formation process law, where the Constitutional Court begins recognized as player important in guard

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<sup>5</sup> Soerjono Soekanto and Sri Mamuji, *Research Normative Law : a Overview Brief*. Jakarta.:king grahindo Persada 2013, page 13

<sup>6</sup> Amirudin and H. Zainal Asikin, *Introduction to Research Methods law*, Jakarta : Raja Grafindo Persada 2006, page 118

<sup>7</sup> Peter Mahmud Marzuki , *Research law*. Jakarta:Kencana Prenada Group, 2007, page 35

constitution and ensure obedience to principles democracy and *the rule of law*.

- 2) Dependency Formation Laws on the Role of Constitutional Judges : Over time, formation Constitution the more depend on the role of constitutional judges , apart from from parliament . This matter show importance control constitutional in guard balance power and guard supremacy constitution.
- 3) Need For Deep Decision Testing : Growth and development decision testing that changes legal norms in Constitution bring up need For study and explore decision the . This is important especially in a legal state democratic or democratic country based on law, where compliance to constitution is base main from system law and government.

With Thus, the role of the Constitutional Court as a "negative legislator" carries significant impact in the formation process laws and demands serious attention to decision testing issued by the Constitutional Court. This matter become important in guard integrity system justice and compliance to principles democracy and the rule of law.<sup>8</sup>

Formation Court The Constitution (MK) is part from change in system statecraft . Since founded in 1945 , MK has become foundation system Justice the constitution does not only confirm principles of state and protection right basic human , but also functional as solution dispute previous constitution No including in the 1945 Constitution. The MK's powers are regulated in the 1945 Constitution and strengthened by law Number 12 of 2011 concerning Legislative Regulations , which stipulate that the Constitutional Court is responsible answer For test alleged law contradictory with the 1945 Constitution. The amendment to the 1945 Constitution includes the Constitutional Court as internal state institutions system administration Indonesian national , with role as bodyguard constitution and facilitating checks and balances mechanism for creating a democratic country .

Apart from protecting the rights of the Indonesian people, the judiciary also aims For enlighten life public . However , the reality on the ground show that repair system education Still Far from ideal. Struggle For fulfil obligation constitutional in field education need noticed in a way more deep For period long time . Article 31 (1) and (2) of the 1945 Constitution of the Republic of Indonesia confirms right every citizen for get teaching , as well obligation government For organize and organize system teaching national law regulated . Therefore that's the discussion about fulfillment obligation constitutional in field education need become more focus big in effort repair system state education for face challenge demands continued life develop .<sup>9</sup>

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<sup>8</sup> Dorinanda Gabriel S, et al, *The Role Of The Constitutional Court In Reforming The Indonesian State System*

<sup>9</sup> Ardita Aprilianti sari, et al , *Role Court constitution in emphasizes the national system in frame Constitution* .

Court Constitution (MK) in context history its formation and role in system constitutional the existence of the Constitutional Court is addressed For implementation supervision Justice . This is part from development law modern statecraft and politics modern statecraft where supervision Justice become important in guard supremacy constitution and obedience to law. Phenomenon of the Modern State of the 20th Century : MK is phenomenon of the modern state of the 20th century . As part from system Justice constitution , MK plays role important in guard fundamental rights , ensuring consistency in application Constitution , and interpreting constitution for the sake of stability of the state and society .

Strategic Role in Constitutional Development , the Constitutional Court has duties and authority as bodyguard constitution , advancement Constitution , and interpreters constitution . Its existence has an important meaning and role strategic in development constitutional law , because the Constitutional Court can measure all order or instruction organizer state administration in general constitutional . Aspect Politics and Legal Aspects : The emergence of the Constitutional Court can understood from two sides , viz side politics and sides law . By political constitutional law , MK is needed For balance power formation laws owned by the DPR and the President , so prevent tyrannical majority . By juridical , the existence of the Constitutional Court is consequence from change the supremacy of the MPR became supremacy constitution , as well the principles of a unitary state , democracy and the rule of law .

The principle of the Unitary State and National Legal System in Article 1 Paragraph (1) of the 1945 Constitution emphasizes that the Indonesian state is a unified state republic . The principle of a unitary state show exists system law national in nature unity , which is based on the Constitution as the basic unit formation and enforcement law . With Thus , the role of the Constitutional Court in development modern constitutionalism confirms importance supremacy constitution , democracy , and the principle of the rule of law in guard stability and justice in public .<sup>10</sup>

Decision Court Constitution (MK) as confirmed in Article 24C paragraph (1) of the 1945 Constitution is as following :

- 1) Acquire Direct Legal Force : Direct Constitutional Court decision own strength law since issued by the Court . It means decision the valid and binding without requires a process or stage addition .
- 2) Legal consequences for All Relevant Parties : Because the Constitutional Court's decision has been own strength law still , p This means that decision the own consequence law for all parties involved in case the . Different with decision Justice general ones only binding on the parties litigants (inter

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<sup>10</sup> Safitri melanie, et al , *Role Court constitution in Indonesia ( know court constitution )*

partes), the Constitutional Court's decision is binding all stakeholders with decision the .

- 3) **No Other Legal Remedies Are Possible Held** : Because the Constitutional Court is court first and last , no There is effort other laws can taken after the Constitutional Court's decision was issued . This matter means The Constitutional Court's decision has strength law fixed (in kracht van gewijsde ) and strength binding (res judicata pro veritate habetur ). In other words, the Constitutional Court's decision has been made own strength law still in a way automatic own strength law binding that must implemented by all party related .<sup>11</sup>

### **Legal Provisions against *Dissenting Opinion* by a Court Judge Constitution in decide case Number 1/PHPU.PRES-XXII/2024 and 2/PHPU.PRES-XXII/2024**

Court Constitution own broad authority in decide PHPU case (General Election Results Dispute). Authority the stated in the laws and constitution of the country concerned. In the decision said , the Court Constitution own authority For judge dispute results election general and decide is results the legitimate or No valid . Court The Constitution also has authority For instruct actions certain requirements are required For ensure justice in the selection process general. Limitations certain maybe there is too in governing law Court Constitution. For example , the Court Constitution Possible only own authority For judge disputes certain arrangements in Constitution the , or There is limitations time certain For submit PHPU application after election general held . Court Constitution role important in ensure fairness and integrity of the democratic process through testing validity results election general.

Existence dissenting *opinion* (different opinion) in decision Court Constitution regarding dispute Presidential Election (General Election of President and Vice President). *Dissenting opinion* is a phenomenon in which one or some judges give different opinions in A verdict, though the majority of judges decided in One direction. The presence of a dissenting opinion indicates that There is difference views among the relevant Constitutional Court judges with interpretation law or considerations used in decide case the. This is part of the due process of law in which the judge has freedom For convey opinion they Alone.

Legal basis *dissenting opinion* in The Constitutional Court's decision is regulated in Article 45 paragraphs (6) and (10) of the Constitutional Court Law which states that If discussion plenary session of constitutional judges No can produce decision , deliberation postponed until discussion plenary session of constitutional judges next . As for, if decision No achieved consensus unanimous , opinion member Different panel of judges loaded in verdict. Existence *dissenting opinion* Possible is things that don't normal in context decision-centered related position significant public, such as Presidential Election . However, this no always

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<sup>11</sup> Vide Article 24 paragraph (1) of the 1945 Law

means that dissenting opinion Alone No legitimate or No reasonable. Every judge has task For do independent and providing analysis his opinion based on consideration their laws consider Correct .

Temporary *dissenting opinion* can add complexity and controversy to A verdict, that can also be done enrich discussion law and provide view necessary alternative considered . However , it's important For ensure that dissenting opinion based on argumentation strong laws and not simply as form opinion personal. *dissenting opinion* first appeared in history Court Constitution, here show exists development or change in practice law and interpretation constitution in that country . Although No normal in context certain , existence *dissenting opinion* is part from judge's freedom to convey view they Alone. Authority Court Constitution For give *dissenting opinion* is :

- 1) **Freedom Opinion** : The judge has freedom For convey opinion they Alone. This is principle base in system democratic law where plurality view appreciated and considered as part from the retrieval process healthy decision.
- 2) **Transparency and Accountability**: Existence *dissenting opinion* can increase transparency and accountability in decision Court Constitution . With exists different opinions, society can understand more both the judge's thought process and the reasoning behind every decision .
- 3) **Legal Progress** : *Dissenting opinion* can become source valuable learning for development future law. Different views give chance for discussion more carry on about issues complex and controversial laws , which in turn can leads to progress thinking law.

However Thus, the Court Constitution might as well have obligation For ensure that *dissenting opinion* the No bother stability law and trust public to institution Justice. Therefore that's important for the judge to provide their dissenting opinion with mature consideration and supported by arguments strong law. By whole, existence *dissenting opinion* can considered as part of a democratic and transparent legal process , provided done with full not quite enough answer and with consider more interest wide from justice and integrity system Justice.

### **Implications decision Court Constitution to enforcement democracy and sovereignty law in context handling case case Number 1/PHPU.PRES-XXII/2024 and 2/PHPU.PRES-XXII/2024**

Implications decision Court Constitution against enforcement democracy and sovereignty law in context handling case The General Election Results Dispute (PHPU) is very important in ensure integrity and legitimacy of the democratic process. Following is a number of implications actual from the Constitutional Court's decision against enforcement democracy and sovereignty law in PHPU case:

- 1) **Enforcing Principle Democracy**: The Constitutional Court's decision in PHPU cases can help straighten up principles democracy with ensure that election general held in a way free , honest and fair . With correct violations that occurred

during the election process, the Constitutional Court provided protection to right voice citizens and strengthen foundation democracy.

- 2) **Strengthening Rule of Law:** The Constitutional Court's decision strengthens sovereignty law with confirm that No There is institution or individuals at the top law, incl institution government or perpetrator politics. With drop decisions based on provisions constitution and laws, the MK emphasized supremacy law as base for a democratic rule of law.
- 3) **Push Accountability Politics:** The Constitutional Court can decide push accountability political with give signal that violation to rules and procedures democratic will prosecuted with Serious. Voters, parties politics, and officials public can more responsible answer on actions and decisions they in the political process.
- 4) **Repair Mechanism Election:** The Constitutional Court's decision ordered repair or changes to the mechanism election general can help increase transparency, fairness and effectiveness of future electoral processes. This can includes suggestions for repair regulation, governance elections, and supervision to implementation election.
- 5) **Building Public Trust:** The Constitutional Court's decision was taken in a way fair and transparent can help build trust public to institution justice and political processes in a way whole. Strong public trust against the Constitutional Court as guard constitution and law is important foundation for stability and prosperity democracy.

With Thus, the Constitutional Court's decision in this PPU case own significant impact to enforcement democracy and sovereignty law in Indonesia, as well help strengthen foundation system democratic and just politics in the future.

### **III. CONCLUSION**

In the Constitutional Court's judicial system, a dissenting opinion is the right of each judge to express a view that differs from the majority of judges deciding the case. The Constitutional Court's decision in PPU cases plays a crucial role in strengthening democracy. By ensuring that the electoral process is conducted in accordance with fair and transparent legal principles, the Constitutional Court helps maintain public trust in the electoral system and its outcomes. This fosters more active political participation and strengthens the legitimacy of the elected government. The Constitutional Court's decision also has significant implications for the enforcement of the sovereignty of law. By adjudicating PPU disputes independently and based on the constitution, the Constitutional Court ensures that the law is applied consistently and fairly. This reinforces that no party is above the law, including in the context of elections. Strong enforcement of the sovereignty of law encourages adherence to the law and strengthens the foundation of the rule of law in Indonesia.



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