

Comparison of Dispute Resolution in General Elections in Indonesia and Hungary

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Abstract

The purpose of this article is to provide an in-depth analysis of the electoral dispute resolution mechanisms in Indonesia and Hungary. Indonesia, the world's largest democracy, holds general elections every five years based on Law Number 7 of 2017, aiming to influence the public through non-coercive means such as rhetoric and public relations, despite the controversial use of agitation and propaganda. Various obstacles and disputes often arise, requiring effective resolution mechanisms involving multiple institutions like the Election Supervisory Board, the Supreme Court, the Honorary Council of Election Organizers, and the Constitutional Court. Hungary, a European Union member with a parliamentary system, employs a mixed electoral system combining proportional representation and single-member districts, with the National Election Committee managing complaints and objections, supported by the Election Court and the Constitutional Court. Using a normative approach with statutory, historical, and comparative legal methods, this study reveals that Indonesia's multi-tiered dispute resolution mechanism ensures comprehensive coverage but faces challenges in legal certainty and efficiency, while Hungary's centralized system offers a more efficient process but faces issues of transparency and accountability. The findings suggest that Indonesia could benefit from streamlining its approach, while Hungary might focus on enhancing the transparency of its system, providing valuable insights for refining electoral dispute resolution processes in both countries to ensure democratic integrity.

Keywords: Comparison, General Election, Dispute Resolution, Indonesia and Hungary

Abstrak

Penulisan artikel ini bertujuan untuk memberikan analisis mendalam tentang mekanisme penyelesaian sengketa pemilu di Indonesia dan Hongaria. Indonesia, demokrasi terbesar di dunia, mengadakan pemilihan umum setiap lima tahun sekali berdasarkan Undang-Undang Nomor 7 Tahun 2017, yang bertujuan untuk mempengaruhi publik melalui cara-cara non-koersif seperti retorika dan hubungan masyarakat, meskipun penggunaan agitasi dan propaganda kontroversial. Berbagai hambatan dan sengketa sering muncul, yang memerlukan mekanisme penyelesaian yang efektif yang melibatkan berbagai institusi seperti Badan Pengawas Pemilu, Mahkamah Agung, Dewan Kehormatan Penyelenggara Pemilu, dan Mahkamah Konstitusi. Hongaria, anggota Uni Eropa dengan sistem parlementer, menggunakan sistem pemilu campuran yang menggabungkan perwakilan proporsional dan distrik anggota tunggal, dengan Komite Pemilihan Nasional mengelola keluhan dan keberatan, didukung oleh Pengadilan Pemilihan dan Mahkamah Konstitusi. Menggunakan pendekatan normatif dengan metode hukum statutori, historis, dan komparatif, studi ini mengungkapkan bahwa mekanisme penyelesaian sengketa bertingkat di Indonesia

memastikan cakupan yang komprehensif tetapi menghadapi tantangan dalam kepastian hukum dan efisiensi, sementara sistem terpusat Hongaria menawarkan proses yang lebih efisien tetapi menghadapi masalah transparansi dan akuntabilitas. Temuan ini menunjukkan bahwa Indonesia dapat mengambil manfaat dari penyederhanaan pendekatannya, sementara Hongaria mungkin perlu fokus pada peningkatan transparansi sistemnya, memberikan wawasan berharga untuk menyempurnakan proses penyelesaian sengketa pemilu di kedua negara guna memastikan integritas demokratis.

Keywords: Komparasi, Pemilihan Umum, Penyelesaian Sengketa, Indonesia dan Hungary



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A. INTRODUCTION

Indonesia is the largest democracy in the world, where general elections are held every five years.¹ The constitutional and juridical basis for these elections is Article 22 E of the 1945 Constitution, further regulated by specific laws.² The current law governing general elections is Law Number 7 of 2017, replacing Law Number 3 of 1999 and Law Number 4 of 2000, which were deemed inadequate due to societal demands and developments. According to Article 22 E (2) of the 1945 Constitution, general elections are held to choose representatives for the People's Representative Council and the Regional Representative Council, President and Vice President, and Regional Representatives Council.³

General elections serve as a means to effectively sway public opinion through various activities, including rhetoric, public relations, mass communication, lobbying, and other strategies.⁴ While agitation and propaganda are heavily criticized in democratic countries, they are often employed by candidates and politicians as political communicators during election campaigns. Indonesia has conducted several general elections since 1955, including in 1971, 1977-1997, 1999, 2004, 2009, 2014, 2019 and 2024.⁵ The conduct of general elections does not always proceed smoothly. Various obstacles may arise during and before elections, which can have wide-ranging impacts if not resolved effectively.⁶ Issues related to dissatisfaction with election outcomes or criminal and administrative violations affecting

¹ Luh Yossi Shuartini Milenia, "Peran Hukum Tata Negara (Studi Kasus Pemilihan Umum di Indonesia)," *Jurnal Media Komunikasi Pendidikan Pancasila dan Kewarganegaraan* 3, no. 2 (2021): 65–76.

² Muhammad Mutawalli, "Legislative Elections: An Overview of Close Proportional System," *PETITA* 8 (2023): 93.

³ Ofis Rikardo, "Penerapan Kedaulatan Rakyat Di Dalam Pemilihan Umum Di Indonesia Berdasarkan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945," *Jurnal Hukum Sasana* 6, no. 1 (2020): 51–71.

⁴ Galih Puji Mulyono dan Rizl Fatoni, "Demokrasi sebagai wujud nilai-nilai sila keempat Pancasila dalam pemilihan umum daerah di Indonesia," *Citizenship Jurnal Pancasila dan Kewarganegaraan* 7, no. 2 (2020): 97–107.

⁵ Rajis Bancin dan Muhammad Syafii Sitorus, "Kunci Keberhasilan Menyongsong Pemilihan Serentak 2024 Menuju Indonesia Berkemajuan," *Jurnal Bakti Sosial* 2, no. 1 (2023): 1–10.

⁶ Bisariyadi Bisariyadi, Anna Triningsih, dan Meyrinda Rahmawaty, "Komparasi mekanisme penyelesaian sengketa pemilu di beberapa negara penganut paham demokrasi konstitusional," *Jurnal Konstitusi* 9, no. 3 (2012): 531–62.

election results are commonly referred to as electoral disputes.⁷ To ensure that electoral disputes do not disrupt the constitutional system or governance of a country or region, an effective mechanism for resolving these disputes is crucial, one that can provide fair decisions for all parties involved.⁸ Electoral disputes can be resolved through judicial and non-judicial means. Judicial resolution of electoral disputes can be pursued through three methods: settlement in the Constitutional Court, regular courts, or specialized courts for elections.⁹ Non-judicial resolution of electoral disputes is handled through electoral commissions or other alternative forms.¹⁰ In Indonesia, the enforcement of electoral law is carried out by various institutions depending on the stage of the electoral process.¹¹ For administrative violations during elections, they can be reported to the Election Supervisory Board, the Supreme Court, and the Ethics Council of Election Organizers.¹² The Ethics Council also has the authority to adjudicate violations of ethical codes in the electoral process.¹³ Disputes arising from the electoral process can be processed by the Election Supervisory Board, through adjudication assemblies, or in the Administrative Court. Furthermore, disputes over election results fall under the jurisdiction of the Constitutional Court. Criminal offenses related to elections can be prosecuted by the Election Supervisory Board, police, public prosecutors, District Courts, and High Courts.

These provisions are regulated by Law Number 7 of 2017 concerning general elections.

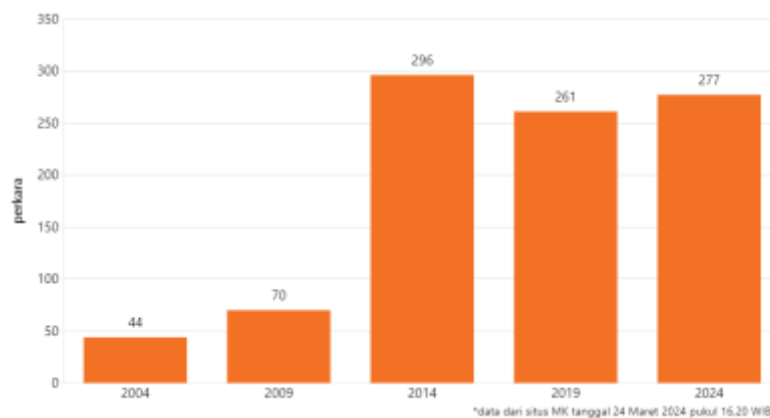


Figure 1 Anomalous traffic of General Election Results Dispute cases registered at the Constitutional Court

⁷ Micael Ririhena, “Kewenangan Bawaslu Dalam Penyelesaian Pelanggaran Administrasi Pemilu,” *Bacarita Law Journal* 4, no. 2 (2024): 112–21.

⁸ La Senu dkk., “Analisis Kewenangan Adjudikasi Bawaslu dalam Penyelesaian Sengketa Proses Pemilu,” *Halu Oleo Legal Research* 4, no. 2 (2022): 308–21.

⁹ Ahmad Siboy, “Constitutionality of constitutional settlement of disputes for the election of local heads,” *Jurnal Cakrawala Hukum* 13, no. 2 (2022): 117–27.

¹⁰ Anis Mashdurohatun, Erman Suparman, dan I. Gusti Ayu Ketut Rachmi Handayani, “Authority of the Constitutional Court in the Dispute Resolution of Regional Head Elections,” *Lex Publica* 6, no. 1 (2019): 52–60.

¹¹ Syailendra Anantya Prawira, “Election violation and election law enforcement in general election in Indonesia,” *Jurnal Hukum Volkgeist* 4, no. 1 (2019): 25–34.

¹² Dedi Supriyadi, Ende Hasbi Nassaruddin, dan Beni Ahmad Saebani, “Position and Legal Certainty in the Decision of the Honorary Board of Election Organizers (After the Constitutional Court Decision Number 32/PUU-XIX/2021),” *West Science Social and Humanities Studies* 1, no. 06 (2023): 315–24.

¹³ Kausar Jumahir Lesen, Muhtadi Muhtadi, dan Martha Riananda, “The Code of Ethics and Disciplinary Management of Political Parties Member,” *Constitutionale* 3, no. 2 (2022): 161–76.

Resolving electoral disputes poses its own challenges, as the electoral process involves multiple stages where violations can occur at each step.¹⁴ Challenges in resolving these disputes include time constraints for legal certainty and fairness, differing perspectives among election organizers and law enforcement agencies, potential overlapping decisions, the need for effectiveness and efficiency, and ensuring justice both in substance and procedure.¹⁵

Meanwhile, Hungary, as a member state of the European Union with a parliamentary system, has a complex and dynamic electoral structure.¹⁶ General elections in Hungary are conducted using a mixed electoral system that combines proportional representation and single-member districts.¹⁷ This system is designed to reflect political diversity and provide fair representation for various political groups in the parliament.¹⁸

The handling of election disputes in Hungary involves various mechanisms and institutions to ensure that any claims or complaints regarding the election process can be resolved fairly and transparently.¹⁹ The process is overseen and managed not only by local election commissions, which play a crucial role in ensuring the smoothness and integrity of the electoral process at the regional level, but also by the National Election Committee, which plays a primary role in handling complaints and disputes related to national elections.²⁰ Any complaints about electoral violations, such as vote manipulation, illegal campaigning, or voter intimidation, can be submitted to the National Election Committee.²¹ This committee is responsible for reviewing and resolving such complaints based on evidence and applicable legal rules.

If any involved party is dissatisfied with the decision of the National Election Committee, they can appeal to the Election Court, a court that has a special role in resolving election disputes in Hungary.²² Ultimately, the Constitutional Court of Hungary plays a

¹⁴ Wahyu Prianto La Ode Hermanto, "Analisis Penyelesaian Sengketa Pemilihan Umum Oleh Badan Pengawas Pemilihan Umum Kota Kendari Pada Tahun 2019," *Jurnal Ilmu Sosial Dan Pendidikan* 2, no. 1 (2024): 20–30.

¹⁵ Aermadepa Aermadepa, "Penyelesaian Sengketa Proses Pemilu Oleh Bawaslu, Tantangan Dan Masa Depan," *Jurnal Justitia: Jurnal Ilmu Hukum dan Humaniora* 1, no. 2 (2019): 1–14.

¹⁶ Mažvydas Jastramskis, "Effects of the mixed parallel electoral system in Lithuania: the worst of all worlds?," *Parliamentary Affairs* 72, no. 3 (2019): 561–87.

¹⁷ Zsolt Enyedi, "The survival of the fittest: Party system concentration in Hungary," dalam *Post-communist EU member states* (Routledge, 2017), 191–216, <https://www.taylorfrancis.com/chapters/edit/10.4324/9781315246321-16/survival-fittest-party-system-concentration-hungary-zsolt-enyedi>.

¹⁸ Arash Abizadeh, "Representation, bicameralism, political equality, and sortition: Reconstituting the second chamber as a randomly selected assembly," *Perspectives on Politics* 19, no. 3 (2021): 791–806.

¹⁹ Réka Várnagy dan Gabriella Ilonszki, "The conflict of partisan interests and normative expectations in electoral system change. Hungary in 2014," *Corvinus Journal of Sociology and Social Policy* 8, no. 1 (2017): 3–24.

²⁰ Mgr Ivan Jarabinský, "Electoral Integrity in Central Europe: an Insight Into the Electoral Rules and Reality," 2020, https://is.muni.cz/th/smwpm/Jarabinsky_Dissertation.pdf.

²¹ Pippa Norris, "The new research agenda studying electoral integrity," *Electoral Studies* 32, no. 4 (2013): 563–75.

²² Max Steuer, "Authoritarian populism, conceptions of democracy, and the Hungarian Constitutional Court: the case of political participation," dalam *Judicial Activism in an Age of Populism* (Routledge, 2023), 69–91, <https://www.taylorfrancis.com/chapters/edit/10.4324/9781003371656-5/authoritarian-populism-conceptions-democracy-hungarian-constitutional-court-case-political-participation-max-steuer>.

major role in resolving election disputes with the authority to assess the constitutionality of election laws and administrative decisions related to elections.²³ This process combines administrative, legal, and judicial elements to address various types of disputes that may arise before, during, or after general elections.²⁴

Based on the discussion and issues presented above, it is clear that election dispute resolution varies from country to country. Typically, these disputes are handled by both judicial and administrative bodies. Therefore, the focus of this study is to identify the steps that can be taken to compare election dispute resolution institutions in Indonesia and Hungary, as Hungary has a National Election Committee, which is the administrative body responsible for overseeing the conduct of elections, as well as the mechanism for resolving election disputes. In this context, comparing election dispute resolution institutions in Indonesia and Hungary is crucial to determine which is more efficient. Further research will be conducted on the issues outlined. The findings and discussions will be presented in a thesis proposal titled "Comparative Analysis of Election Dispute Resolution in Indonesia and Hungary."

B. METHOD

This research employs a normative research approach utilizing statutory, historical, and comparative legal approaches.²⁵ Normative research involves secondary data sources such as legal regulations, books, journals, theses, and others. The technique used for collecting legal materials and literature includes literature review and documentary study. Legal materials, in the form of regulations, are examined normatively and analyzed using historical and comparative approaches.²⁶

C. RESULTS AND DISCUSSIONS

1. History of General Elections in Indonesia and Hungary

Miriam Budiardjo explains that in 1955, Indonesia held its first general election, using a Proportional Representation system. Voters could either directly choose a candidate from a list (a characteristic of the district system), or they could vote for a party, which would then allocate votes to candidates based on their list number.²⁷ Candidates were elected based on the Quotient of the Electors List. In subsequent elections in 1971, 1977, 1982, 1987, 1992, 1997, and 1999, Indonesia continued to use the Proportional Representation system with

²³ László Sólyom dan Georg Brunner, *Constitutional judiciary in a new democracy: the Hungarian Constitutional Court* (University of Michigan Press, 2000).

²⁴ Cass R. Sunstein, *Legal reasoning and political conflict* (Oxford University Press, 2018).

²⁵ Ralf Michaels, "The functional method of comparative law," *The Oxford handbook of comparative law* 2 (2006): 345–89.

²⁶ David Tan, "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum," *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 8, no. 8 (2021): 2463–78.

²⁷ Dewanto Wishnu, "Tinjauan Hukum Implementasi Sistem Demokrasi Pancasila Melalui Pemilihan Umum Langsung Di Indonesia" (PhD Thesis, Universitas Tama Jagakarsa, 2017), <http://digilib.iblam.ac.id/id/eprint/153/1/Tesis%20-%20Dr.%20Wishnu%20Dewanto.pdf>.

closed-list proportional representation.²⁸ During this period, voters could only vote for a party, which then allocated votes to candidates based on their position on the list.²⁹

Moving forward to the 2004 general election, Budiardjo describes a shift to a Proportional Representation system with open-list proportional representation. In this system, voters could directly choose their preferred candidates.³⁰ This change allowed candidates listed higher on the ballot to have a better chance of winning because votes cast for the party were attributed to candidates in order of their placement on the list. From a gender perspective, Article 65 of Law No. 12/2003 stipulates that each political party must nominate at least 30% female candidates for the People's Representative Council and Regional Representative Council seats in each electoral district.³¹

From the historical progression of general elections held in Indonesia over the years, a proportional representation system has been consistently utilized. However, there have been modifications to this proportional system over time, tailored to fit the conditions and circumstances of the governing system at the respective periods.

In addition, Law Number 7 of 2017 concerning General Elections affirms that "General elections shall be conducted based on the principles of direct, universal, free, secret, fair, and honest voting. In organizing general elections, the election organizers must adhere to these principles and ensure that the process adheres to the principles of: a. independence; b. honesty; c. fairness; d. legal certainty; e. orderliness; f. transparency; g. proportionality; h. professionalism; i. accountability; j. effectiveness; and k. efficiency."

The history of elections in Hungary reflects significant political evolution influenced by changes in the system of government, external influences, and internal social dynamics. During the Austro-Hungarian Empire (1867-1918), Hungary began holding elections in the late 19th century, but voting rights were very limited and only granted to men who met certain criteria, such as land ownership or income.³² After the fall of the Austro-Hungarian Empire, Hungary briefly became a republic during the First Hungarian Republic (1918-1920). The first elections were held with a more inclusive system, although this period was marked by political instability. The Horthy Era (1920-1944) was characterized by authoritarian rule under Miklós Horthy, where elections were held but opposition parties were often suppressed, and the electoral process was not entirely free and fair.

After World War II, Hungary was under Nazi occupation and puppet government, which abolished all forms of democracy. The Communist Era (1949-1989) transformed Hungary into a Soviet satellite state with a one-party system, where elections were held

²⁸ Mahesa Rannie, "Legal regulations for the general election system in Indonesia from the 1955 election to the concurrent election of 2019," *Nurani: Jurnal Kajian Syari'ah dan Masyarakat* 20, no. 2 (2020): 247–64.

²⁹ Reni Suwarso, "Indonesian democracy: the impact of electoral systems on political parties, 1999–2009" (PhD Thesis, Victoria University, 2016), https://vuir.vu.edu.au/31051/3/SUWARSO%20Reni-thesis_nosignature.pdf.

³⁰ Andrew Ellis, "Indonesia: Transition and Change but Electoral System Continuity," dalam *The Handbook of Electoral System Choice*, ed. oleh Josep M. Colomer (London: Palgrave Macmillan UK, 2004), 497–511, https://doi.org/10.1057/9780230522749_29.

³¹ Nugraheni Pancaningtyas, "The gender quota, the electoral system and women's representation in Indonesia: case studies of two district parliaments," 2015, <https://core.ac.uk/download/pdf/156712734.pdf>.

³² Schmidt Andrea, "Challenges of the Illiberal Democracy in Hungary. Some Aspects to the 2018 Elections," *Polish Political Science Review* 6, no. 2 (1 Desember 2018): 70–90, <https://doi.org/10.2478/ppsr-2018-0014>.

regularly but were non-competitive, with the Communist Party (MSZMP) being the only allowed party. The Hungarian Revolution of 1956 was a major attempt to break free from Soviet domination and demand democracy, although it was eventually crushed by Soviet military intervention. In the late 1980s, pressure for political and economic reforms increased, culminating in a peaceful transition to democracy in 1989.

The first free and fair elections were held in 1990, marking the beginning of the multi-party democratic era in Hungary. A parliamentary system was adopted, with a mixed electoral system combining elements of proportional representation and single-member districts. Since 1990, Hungary has held general elections regularly every four years. Its political system has undergone various changes, including constitutional reforms and modifications in the electoral system to enhance representation and government efficiency.

The 1990 election marked the beginning of the multi-party democratic era after the fall of communism, with the Hungarian Democratic Forum (MDF) winning and József Antall becoming prime minister. In the 1994 election, the Hungarian Socialist Party (MSZP), the successor to the Communist Party, won a large majority, and Gyula Horn became prime minister, forming a coalition with the Alliance of Free Democrats (SZDSZ).

In the 1998 election, Fidesz – the Young Democrats' Alliance – won, and Viktor Orbán became prime minister for the first time, focusing on economic reforms and European integration. However, in the 2002 election, MSZP returned to power under the leadership of Péter Medgyessy, who was later replaced by Ferenc Gyurcsány in 2004. The 2006 election was again won by MSZP, but Gyurcsány's government faced major protests and a scandal related to his admission of lying during the campaign.

In the 2010 election, Fidesz under Viktor Orbán won a two-thirds majority in parliament, allowing significant constitutional changes. Orbán's government introduced a series of controversial reforms, including changes to the electoral system that strengthened his position. The 2014 election saw Fidesz retain its constitutional majority, despite increasing international criticism of measures perceived to undermine democracy and press freedom. In the 2018 election, Fidesz once again won a two-thirds majority, continuing its controversial policies related to immigration and media control. The 2022 election was also won by Fidesz with a significant majority, reaffirming Viktor Orbán's dominance in Hungarian politics, despite criticism from the European Union and international organizations highlighting issues related to the rule of law and human rights.

Throughout this period, Fidesz under Viktor Orbán has consolidated power through changes to electoral laws, influence over the media, and control of state institutions. Domestic and international critics have raised concerns about the erosion of democracy, civil liberties, and the rule of law. Meanwhile, the political opposition in Hungary faces significant challenges in trying to compete with Fidesz's dominance. Overall, the history of elections in Hungary since 1990 shows a shift from a hopeful democratic transition to a period of political dominance by one party, with important implications for democracy and political freedom in the country.

Resolution of Electoral Disputes in Indonesia and Hungary

In Indonesia, the term "General Election" refers to the process of electing members of the People's Representative Council, the Regional Representative Council, the President and

Vice President, as well as members of the Regional People's Representative Councils. However, materially interpreting general elections in Indonesia also includes direct elections as a form of exercising popular sovereignty, specifically the elections for Regional Heads, comprising Governors, Regents, and Mayors.

To ensure legal consistency, certainty, and the effective and efficient conduct of general elections, the Indonesian government enacted the codification of election laws with the passage of Law No. 7 of 2017 concerning General Elections in August 2017. In Book IV of this law, the following aspects are regulated:

Violations of general elections, which include violations of the ethical codes of election organizers and administrative violations during elections.

Disputes over the election process.

Disputes over election results.

The term "General Election" in Indonesia is interpreted as an election conducted to choose members of the People's Representative Council, the Regional Representative Council, the President and Vice President, and the members of the Regional People's Representative Councils directly by the people. The election process is governed by the principles of direct, general, free, secret, fair, and honest elections, as stipulated in Law No. 7 of 2017 concerning General Elections.

The Election Commission is the national, permanent, and independent institution responsible for conducting general elections. The Election Supervisory Body oversees the election process across the entire territory of the Republic of Indonesia. Together with the Election Organizer Ethics Council, these entities form a unified function in the organization of elections.

Violations of the election organizer's code of ethics involve breaches of the ethical standards sworn or promised by election organizers before assuming their duties. The Election Organizer Ethics Council is tasked with investigating and adjudicating complaints and/or reports of alleged violations of the election organizer's code of ethics by the Election Commission and the Election Supervisory Body.

Administrative violations during elections encompass breaches of procedures, methods, or mechanisms related to the administration of elections at every stage of the election process, excluding election crimes and violations of the election organizer's code of ethics. Such violations of the Election Commission's regulations during any stage of the election process constitute administrative violations. Unlike previous laws where the Election Commission resolved administrative violations, Law No. 7 of 2017 designates the Election Supervisory Body to handle administrative violations.

The Election Supervisory Body is responsible for addressing administrative violations within 14 working days of receiving and registering relevant findings and reports. Following this, the Election Commission loses its authority to handle any election-related disputes. Instead, the Election Commission must implement the decisions made by the Election Supervisory Body within 3 working days of their announcement.

The Election Commission's decisions may include administrative penalties, such as the disqualification of candidates for the People's Representative Council, the Regional Representative Council, the Presidency, the Vice Presidency, and the Regional People's

Representative Councils. Candidates who are disqualified have the right to appeal to the Supreme Court within 3 working days from the date of the Election Commission's decision. The Supreme Court is required to make a ruling within 14 working days from receiving the case file, and its decision is final and binding.

Electoral disputes can arise between electoral participants or between participants and the Election Organizer due to decisions by the Election Commission, Provincial Election Commission, or District/City Election Commission. The Election Supervisory Body is tasked with adjudicating these disputes and must resolve them within a maximum of 12 working days from receiving the petition.

Decisions by the Election Supervisory Body are final and binding except in cases involving the verification of political party participants, the final list of candidates for the People's Representative Council, the Regional Representative Council, the Presidency, the Vice Presidency, and the Regional People's Representative Councils, and the establishment of Candidate Pairs. For disputes related to these matters, parties can appeal to the State Administrative Court within 5 working days from the announcement of the Election Supervisory Body's decision.

The State Administrative Court examines and resolves these appeals within a maximum of 21 working days from the date the complete lawsuit is submitted. The court's decision is final and binding and cannot be further appealed. The Election Commission must implement the court's decision within 3 (three) working days.

Reports of alleged electoral crimes are forwarded by the Election Supervisory Body, Provincial Election Supervisory Body, District/City Election Supervisory Body, and/or District Election Supervisory Committee to the Indonesian National Police within 24 hours from the time these bodies determine that the action or conduct in question is suspected to be an electoral crime. Suspected electoral crimes are declared by these bodies after coordinating with the Indonesian National Police and the Attorney General's Office within the Integrated Law Enforcement Center.

Investigators, upon finding sufficient preliminary evidence of electoral crimes during their investigations, submit their findings and case files to the criminal investigators within 24 hours. The Indonesian National Police criminal investigators, upon completing their investigation, submit their investigation results and case files to the public prosecutor within 14 (fourteen) days from the date they receive the report and can proceed without the presence of the suspect. Cases involving electoral crimes are examined, prosecuted, and adjudicated by the District Court.

In Indonesia, the Constitutional Court is essential in resolving disputes related to national election results. If there is a disagreement between the General Election Commission and electoral participants over the national vote count, participants can submit a petition to annul the General Election Commission's decision to the Constitutional Court. This petition must be filed within 3 x 24 hours from the announcement of the vote count results.

The Constitutional Court's role in these disputes is governed by Constitutional Court Regulation No. 1 of 2014, which outlines the procedures for handling disputes concerning the election of members to the People's Representative Council, the Regional Representative

Council, the President and Vice President, and the Regional People's Representative Councils. The General Election Commission, Provincial Election Commission, and District/City Election Commission are required to adhere to the Constitutional Court's decisions.

Regarding the resolution of election disputes in Indonesia, it can be concluded that there are several highest decision-making bodies distinguished by the type of dispute in the electoral process. For violations of the code of ethics by electoral organizers, the highest decision-making body is the Honorary Council of Election Organizers. For administrative violations and electoral disputes (excluding decisions by the General Election Commission on the verification of political party participants and the final list of candidates for legislative bodies and presidential elections), the highest decision-making body is the Election Supervisory Board. In the case of electoral disputes concerning decisions by the General Election Commission on the verification of political party participants and the final list of candidates for legislative bodies and presidential elections, the highest decision-making body is the administrative court, specifically the State Administrative Court. For criminal offenses, the highest decision-making body is the general court, specifically the District Court. In the case of disputes over election results, the highest decision-making body is the Constitutional Court.

In Hungary, the mechanism for resolving election disputes involves several institutions and legal procedures designed to ensure that elections are conducted fairly and in accordance with the law. This process combines administrative, legal, and judicial elements to address various types of disputes that may arise before, during, or after an election.

Election disputes in Hungary are governed by several key laws and legal regulations, including:

- a. Act No. XXXVI of 2013 on the Election of Members of Parliament: This law regulates the entire election process, from candidate registration, the conduct of elections, to the announcement of election results.
- b. Act No. CLI of 2011 on the Constitutional Court: This law governs the duties and powers of the Constitutional Court of Hungary in adjudicating cases related to the constitutionality of laws and policies.
- c. Administrative regulations issued by the National Election Committee: These regulations govern the administrative procedures of elections and the resolution of disputes.

Several key institutions are involved in the process of resolving election disputes in Hungary:

- a. National Election Committee (NEC): The NEC is the administrative body responsible for overseeing the conduct of elections. It supervises the entire election process, from election administration to the verification of election results. The NEC also receives and assesses complaints related to election law violations.
- b. Election Court: This court has the authority to handle disputes related to election results and violations of election law. The Election Court can hear cases brought by political parties, candidates, or voters who feel aggrieved.

- c. **Constitutional Court:** The Constitutional Court of Hungary has the authority to adjudicate cases concerning the constitutionality of election laws and decisions made by the NEC. This court can also issue rulings on election disputes that have a broad impact on the legal system.

The procedure for resolving election disputes in Hungary consists of several stages:

- 1) **Filing a Complaint:** An election dispute can begin with the submission of a complaint to the NEC. This complaint typically involves alleged violations of election regulations, such as electoral fraud or non-compliance with administrative rules. The complaint must be filed within a timeframe specified by law, usually within a few days of the incident in question.
- 2) **Assessment by the NEC:** The NEC will assess the complaint based on available evidence and applicable legal rules. If the NEC finds that a violation has occurred, it can take corrective action, such as ordering a re-vote in certain districts or issuing a decision to rectify errors in the election process.
- 3) **Appeal to the Election Court:** If any party is dissatisfied with the NEC's decision, they can appeal to the Election Court. The Election Court will review the NEC's decision and can overturn or amend it if a legal violation is found.
- 4) **Appeal to the Constitutional Court:** After the Election Court's decision, the aggrieved party can still appeal to the Constitutional Court. The Constitutional Court will determine whether any constitutional aspects are affected by the Election Court's decision. This court does not deal with factual issues but focuses on the legal and constitutional aspects of the election dispute.

The mechanism for resolving election disputes in Hungary involves a series of procedures and institutions designed to ensure that the election process is conducted fairly and in accordance with the law. Although this system has a robust framework, challenges in its implementation indicate a need for reforms and improvements to be more effective in maintaining the integrity of elections.

2. The Function of the Constitutional Court in Electoral Disputes in Indonesia and Hungary

In Indonesia, the role of the Constitutional Court is established by Article 24C, paragraph (1) of the 1945 Constitution, which outlines four specific powers and one constitutional duty assigned to the Court. This framework is further detailed in Article 10, paragraphs (1)(a) through (d) of Law Number 24 of 2003 concerning the Constitutional Court. The four powers granted to the Constitutional Court are:

- a. Evaluating the constitutionality of laws in relation to the 1945 Constitution;
- b. Settling disputes over the authority of state institutions as defined by the 1945 Constitution;
- c. Making decisions on the dissolution of political parties;
- d. Addressing conflicts concerning election results.

According to Article 7, paragraphs (1) through (5), and Article 24C, paragraph (2) of the 1945 Constitution, as reiterated in Article 10, paragraph (2) of Law Number 24 of 2003, the Constitutional Court has a constitutional duty to make rulings on whether the President

and/or Vice President have committed legal violations, disgraceful acts, or do not meet the qualifications for their office as outlined in the 1945 Constitution.

With the advent of the reform era and increased public participation in elections, mechanisms for resolving disputes have become essential. The Constitutional Court is empowered to adjudicate Election Disputes to ensure that elections are conducted fairly and democratically. Since 2004, the Court has processed a total of 2,173 cases. The highest number of Election Dispute cases was recorded during the 2014 elections, with 902 applications.

As stipulated in Law Number 32 of 2004 concerning Regional Governments, Article 106 paragraph (1) before amendment stated: "Objections to the determination of the election results of regional heads and deputy regional heads can only be submitted by the candidate pair to the Supreme Court within 3 (three) days after the determination of the election results of regional heads and deputy regional heads." Furthermore, the submission of disputes regarding the election results of Regional Heads and Deputy Regional Heads is elaborated in Article 3 of the same Law, which states: "The objection submission to the Supreme Court as referred to in paragraph (1) shall be submitted to the high court for regional head and deputy regional head elections of provinces and to the district court for regional head and deputy regional head elections of regencies/cities."

Over time, the authority to adjudicate disputes concerning the election of Regional Heads and Deputy Regional Heads has been transferred to the Constitutional Court, following the enactment of Law Number 12 of 2008, which amended Law Number 32 of 2004 on Regional Governments. Article 236C specifies that disputes related to the vote count results for regional head and deputy regional head elections, previously handled by the Supreme Court, are to be transferred to the Constitutional Court no later than 18 months after the law's enactment. The Constitutional Court's role in resolving these disputes is guided by Constitutional Court Regulation No. 15/PMK/2008, which outlines the procedures for handling election disputes.

In Indonesia, the Constitutional Court addresses election disputes through a process known as a speedy trial, as outlined in Constitutional Court Regulation No. 15 of 2008. This regulation requires that disputes from local elections (*Pemilihan umumkada*) be resolved quickly and efficiently, with the Constitutional Court serving as both the initial and final authority. The speedy trial process mandates that disputes be adjudicated within 14 working days, and constitutional judges are responsible for thoroughly reviewing all evidence presented, which is essential for the court's decisions.

The Constitutional Court categorizes violations based on their severity: systematic, structured, and massive violations versus sporadic violations. This categorization empowers the Constitutional Court as the singular institution capable of deciding cases involving local election results for Regional Heads and Deputy Regional Heads. In some cases, the Constitutional Court has demonstrated its authority by directly assigning rights to one candidate pair if another candidate pair is convincingly proven to have committed violations.

The decisions issued by the Constitutional Court, as the final and binding rulings often spark public debate. Some segments of society criticize these decisions for allegedly diverging from legislative frameworks, prompting demands from both the public and

practitioners for the court to thoroughly examine, adjudicate, and decide on disputes. Consequently, resolving these controversies stands as an ongoing challenge for the Constitutional Court.

In Hungary, the Constitutional Court plays a significant role in resolving election disputes. Here are some of the main duties of the Constitutional Court in the context of election disputes:

a. Adjudicating Constitutional Disputes Related to Elections

The Constitutional Court is responsible for adjudicating disputes concerning the constitutionality of election laws and regulations. If there is a claim that a law or election regulation contradicts the Hungarian Constitution, the Constitutional Court has the authority to review and provide a final ruling.

b. Resolving Election Result Disputes

One of the main duties of the Constitutional Court is to resolve disputes over election results. Political parties, candidates, or voters dissatisfied with the election results can file a lawsuit with the Constitutional Court. The Court will review the submitted evidence and arguments, and if significant violations are found, they can decide to annul the election results in certain areas or order a re-election.

c. Oversight of the Election Process

The Constitutional Court also oversees the election process to ensure that all stages of the election are conducted in accordance with democratic principles and applicable laws. They monitor compliance with election laws and can take action if serious violations that could affect the election results are found.

d. Providing Legal Interpretation

In situations where there is ambiguity or differing interpretations of election laws, the Constitutional Court has the authority to provide binding legal interpretations. This ensures that laws are applied consistently and fairly.

e. Handling Complaints and Grievances

In addition to resolving election result disputes, the Constitutional Court also handles other complaints and grievances related to the election process. This includes violations of voter rights, intimidation, or other illegal actions that could affect the integrity of the election.

The Constitutional Court in Hungary plays a key role in maintaining the integrity and fairness of elections. With the authority to adjudicate constitutional disputes, resolve election result disputes, oversee the election process, provide legal interpretations, and handle complaints, the Constitutional Court ensures that elections in Hungary are conducted in accordance with democratic principles and applicable laws.

D. CONCLUSION

Elections aim to influence people persuasively through activities such as rhetoric, public relations, and mass communication. While agitation and propaganda are often condemned, these techniques are commonly used during campaigns. The election process does not always proceed smoothly and may encounter obstacles that need to be addressed

promptly and effectively. Election disputes can be resolved through non-judicial or judicial means. In Indonesia, dispute resolution under Law Number 7 of 2017 involves Bawaslu, the Supreme Court, and the Honorary Council of Election Organizers, with various mechanisms depending on the election stage. In Hungary, the National Election Committee, established by the Constitution, handles complaints with broad authority to investigate and impose penalties. Decisions by the Constitutional Courts in Indonesia and Hungary are final and binding, while in Hungary, the committee ensures elections are valid and constitutional with extensive powers to investigate and address election law violations.

E. REFERENCE

- Abizadeh, Arash. "Representation, bicameralism, political equality, and sortition: Reconstituting the second chamber as a randomly selected assembly." *Perspectives on Politics* 19, no. 3 (2021): 791–806.
- Aermadepa, Aermadepa. "Penyelesaian Sengketa Proses Pemilu Oleh Bawaslu, Tantangan Dan Masa Depan." *Jurnal Justitia: Jurnal Ilmu Hukum dan Humaniora* 1, no. 2 (2019): 1–14.
- Andrea, Schmidt. "Challenges of the Illiberal Democracy in Hungary. Some Aspects to the 2018 Elections." *Polish Political Science Review* 6, no. 2 (1 Desember 2018): 70–90. <https://doi.org/10.2478/ppsr-2018-0014>.
- Bancin, Rajis, dan Muhammad Syafii Sitorus. "Kunci Keberhasilan Menyongsong Pemilihan Serentak 2024 Menuju Indonesia Berkemajuan." *Jurnal Bakti Sosial* 2, no. 1 (2023): 1–10.
- Bisariyadi, Bisariyadi, Anna Triningsih, dan Meyrinda Rahmawaty. "Komparasi mekanisme penyelesaian sengketa pemilu di beberapa negara penganut paham demokrasi konstitusional." *Jurnal Konstitusi* 9, no. 3 (2012): 531–62.
- Ellis, Andrew. "Indonesia: Transition and Change but Electoral System Continuity." Dalam *The Handbook of Electoral System Choice*, disunting oleh Josep M. Colomer, 497–511. London: Palgrave Macmillan UK, 2004. https://doi.org/10.1057/9780230522749_29.
- Enyedi, Zsolt. "The survival of the fittest: Party system concentration in Hungary." Dalam *Post-communist EU member states*, 191–216. Routledge, 2017. <https://www.taylorfrancis.com/chapters/edit/10.4324/9781315246321-16/survival-fittest-party-system-concentration-hungary-zsolt-enyedi>.
- Jarabinský, Mgr Ivan. "Electoral Integrity in Central Europe: an Insight Into the Electoral Rules and Reality," 2020. https://is.muni.cz/th/smwpm/Jarabinsky_Dissertation.pdf.
- Jastramskis, Mažvydas. "Effects of the mixed parallel electoral system in Lithuania: the worst of all worlds?" *Parliamentary Affairs* 72, no. 3 (2019): 561–87.
- La Ode Hermanto, Wahyu Prianto. "Analisis Penyelesaian Sengketa Pemilihan Umum Oleh Badan Pengawas Pemilihan Umum Kota Kendari Pada Tahun 2019." *Jurnal Ilmu Sosial Dan Pendidikan* 2, no. 1 (2024): 20–30.
- Lesen, Kausar Jumahir, Muhtadi Muhtadi, dan Martha Riananda. "The Code of Ethics and Disciplinary Management of Political Parties Member." *Constitutionale* 3, no. 2 (2022): 161–76.

- Mashdurohatun, Anis, Erman Suparman, dan I. Gusti Ayu Ketut Rachmi Handayani. "Authority of the Constitutional Court in the Dispute Resolution of Regional Head Elections." *Lex Publica* 6, no. 1 (2019): 52–60.
- Michaels, Ralf. "The functional method of comparative law." *The Oxford handbook of comparative law* 2 (2006): 345–89.
- Milenia, Luh Yossi Shuartini. "Peran Hukum Tata Negara (Studi Kasus Pemilihan Umum di Indonesia)." *Jurnal Media Komunikasi Pendidikan Pancasila dan Kewarganegaraan* 3, no. 2 (2021): 65–76.
- Mulyono, Galih Puji, dan Rizal Fatoni. "Demokrasi sebagai wujud nilai-nilai sila keempat Pancasila dalam pemilihan umum daerah di Indonesia." *Citizenship Jurnal Pancasila dan Kewarganegaraan* 7, no. 2 (2020): 97–107.
- Mutawalli, Muhammad. "Legislative Elections: An Overview of Close Proportional System." *PETITA* 8 (2023): 93.
- Norris, Pippa. "The new research agenda studying electoral integrity." *Electoral Studies* 32, no. 4 (2013): 563–75.
- Pancaningtyas, Nugraheni. "The gender quota, the electoral system and women's representation in Indonesia: case studies of two district parliaments," 2015. <https://core.ac.uk/download/pdf/156712734.pdf>.
- Prawira, Syailendra Anantya. "Election violation and election law enforcement in general election in Indonesia." *Jurnal Hukum Volkgeist* 4, no. 1 (2019): 25–34.
- Rannie, Mahesa. "Legal regulations for the general election system in Indonesia from the 1955 election to the concurrent election of 2019." *Nurani: Jurnal Kajian Syari'ah dan Masyarakat* 20, no. 2 (2020): 247–64.
- Rikardo, Ofis. "Penerapan Kedaulatan Rakyat Di Dalam Pemilihan Umum Di Indonesia Berdasarkan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945." *Jurnal Hukum Sasana* 6, no. 1 (2020): 51–71.
- Ririhena, Micael. "Kewenangan Bawaslu Dalam Penyelesaian Pelanggaran Administrasi Pemilu." *Bacarita Law Journal* 4, no. 2 (2024): 112–21.
- Sensu, La, Guasman Tatawu, Muhammad Sabarudin Sinapoy, Oheo Kaimuddin Haris, Sahrina Safiuddin, dan M. Gafur. "Analisis Kewenangan Adjudikasi Bawaslu dalam Penyelesaian Sengketa Proses Pemilu." *Halu Oleo Legal Research* 4, no. 2 (2022): 308–21.
- Siboy, Ahmad. "Constitutionality of constitutional settlement of disputes for the election of local heads." *Jurnal Cakrawala Hukum* 13, no. 2 (2022): 117–27.
- Sólyom, László, dan Georg Brunner. *Constitutional judiciary in a new democracy: the Hungarian Constitutional Court*. University of Michigan Press, 2000.
- Steuer, Max. "Authoritarian populism, conceptions of democracy, and the Hungarian Constitutional Court: the case of political participation." Dalam *Judicial Activism in an Age of Populism*, 69–91. Routledge, 2023. <https://www.taylorfrancis.com/chapters/edit/10.4324/9781003371656-5/authoritarian-populism-conceptions-democracy-hungarian-constitutional-court-case-political-participation-max-steuer>.
- Sunstein, Cass R. *Legal reasoning and political conflict*. Oxford University Press, 2018.

- Supriyadi, Dedi, Ende Hasbi Nassaruddin, dan Beni Ahmad Saebani. "Position and Legal Certainty in the Decision of the Honorary Board of Election Organizers (After the Constitutional Court Decision Number 32/PUU-XIX/2021)." *West Science Social and Humanities Studies* 1, no. 06 (2023): 315–24.
- Suwarso, Reni. "Indonesian democracy: the impact of electoral systems on political parties, 1999–2009." PhD Thesis, Victoria University, 2016. https://vuir.vu.edu.au/31051/3/SUWARSO%20Reni-thesis_nosignature.pdf.
- Tan, David. "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum." *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 8, no. 8 (2021): 2463–78.
- Várnagy, Réka, dan Gabriella Ilonszki. "The conflict of partisan interests and normative expectations in electoral system change. Hungary in 2014." *Corvinus Journal of Sociology and Social Policy* 8, no. 1 (2017): 3–24.
- Wishnu, Dewanto. "Tinjauan Hukum Implementasi Sistem Demokrasi Pancasila Melalui Pemilihan Umum Langsung Di Indonesia." PhD Thesis, Universitas Tama Jagakarsa, 2017. <http://digilib.iblam.ac.id/id/eprint/153/1/Tesis%20-%20Dr.%20Wishnu%20Dewanto.pdf>.