

Reformulasi penyelesaian sengketa dan perselisihan hasil pemilihan umum oleh kekuasaan kehakiman berbasis electoral justice system di Indonesia = Reformulation of electoral dispute and election result dispute settlement by judicial power based on electoral justice system in Indonesia

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Abstrak

Penelitian tesis ini bertujuan untuk menganalisis problematika hukum pengaturan penyelesaian sengketa dan perselisihan hasil pemilihan umum oleh kekuasaan kehakiman di Indonesia dan kemudian merumuskan ulang formula pengaturan yang berbasis electoral justice system. Hasil Penelitian ini menunjukkan bahwa problematika hukum dimaksud diantaranya berkaitan dengan miskonsepsi tentang sengketa Pemilu dan perselisihan hasil Pemilu, desain institusional bawaslu, hukum acara baik untuk penyelesaian sengketa Pemilu maupun untuk perselisihan hasil Pemilu yang tidak kompatibel dengan karakteristik Pemilu, dan ambiguitas tafsir mengenai kewenangan Mahkamah Konstitusi dalam penyelesaian perselisihan hasil Pemilu. Problematika tersebut dalam beberapa kasus telah melahirkan dualisme putusan pengadilan yang saling bertentangan, sehingga mendistorsi prinsip negara hukum yang diamanatkan oleh konstitusi. Oleh karena itu, pengaturan penyelesaian sengketa dan perselisihan hasil pemilihan umum oleh kekuasaan kehakiman di Indonesia perlu direformulasi berbasis pada prinsip-prinsip electoral justice system agar lebih memberikan kepastian hukum bagi penyelenggaraan Pemilu di Indonesia.

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The research aims to analyze the problems regarding the regulation of electoral dispute and election result dispute settlement by judicial power in Indonesia. The research also aims to reformulate the regulation of electoral dispute and election result dispute settlement by judicial power in Indonesia based on electoral justice system principles. This study found that the problems are about the misconception concerning electoral dispute and election result dispute, institutional design of Bawaslu, the procedural law for the settlement of electoral disputes as well as for the election result dispute are not compatible with the characteristics of the election, and the ambiguity of constitutional court's interpretation regarding its authority in the election result dispute settlement. These problems in some cases led to the duality of conflicting court rulings, thus distorting the rule of law as mandated by the constitution. Therefore, the regulation of electoral dispute and election result dispute settlement by judicial power in Indonesia needs to be reformulated based on electoral justice system principles in order to embody legal certainty in the election process in Indonesia.