

Analysis of The 2024 Election Candidate Regulations (Case Study of Re-Voting in The 2024 Pesawaran Regent and Vice Regent Election Based on The Constitutional Court Decision Number 20/Phpu.Bup-Xxiii/2025)

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Abstract. *The 2024 Simultaneous Regional Head Elections resulted in 309 disputed results registered by the Constitutional Court. Of these, 24 cases were decided with a revote (PSU) order, 11 of which were due to problems during the nomination stage. One of the PSU phenomena that attracted attention was the case of the 2024 Pesawaran Regent and Deputy Regent Election, which resulted in Constitutional Court Decision Number 20/PHPU.BUP-XXIII/2025 due to issues with the validity of the candidate's required documents, particularly the diploma of one of the Regent candidates. This study aims to: (1) analyze the legal problems that occurred during the nomination stage for the Regent and Deputy Regent of Pesawaran in 2024; (2) analyze the judge's considerations in the Constitutional Court Decision Number 20/PHPU.BUP-XXIII/2025; and (3) reconstruct the regulations for the nomination stage for the Regional Head Election based on the decision. This study uses a normative legal research method with a statute approach, a conceptual approach, and a case approach. Data analysis was carried out descriptively and qualitatively. The results of the study indicate that: First, legal problems in the nomination stage of the 2024 Pesawaran Regent and Deputy Regent Election occurred in three sub-stages, namely administrative verification, factual verification, and candidate determination. The main problem was the invalidity of the High School Diploma Replacement Certificate (SKPI) belonging to one of the regent candidates who did not meet the established standards and procedures. Second, the considerations of the Constitutional Court judges in their decisions were based on an in-depth analysis of the evidence presented, thus concluding that regent candidate Number 1 did not meet the minimum educational requirements as stipulated by applicable laws and regulations, and ordered disqualification and the implementation of a PSU. Third, reconstruction of the regulations for the nomination stage needs to be carried out by*

strengthening the verification mechanism for candidate requirements documents, emphasizing the hierarchy of authority of issuing institutions and validators of diploma replacement documents, and regulating a more comprehensive reverification mechanism in the PKPU.

Keywords: Constitutional Court; Election; Nomination; Regulatory Reconstruction; Re-vote.

1. Introduction

Indonesia is a unitary state where its territory is divided into provincial areas, and these provincial areas are divided into districts and cities. Each province, district, and city has the authority to manage its own government based on the principles of autonomy and assistance tasks. Each region has a Regional Head, namely the Governor and Deputy Governor for the Province, the Regent and Deputy Regent for the Regency and the Mayor and Deputy Mayor for the City. The pairs of Governors, Regents, and Mayors are elected democratically based on Article 18 paragraph (4) of the Constitution of the Republic of Indonesia. Democratic here can be interpreted as being elected directly by the people or by other methods considered democratic based on the will of the people or based on applicable regulations.

Direct elections are currently considered a democratic method for the people, so most regions in Indonesia elect governors, district heads, and mayors by going to polling stations (TPS) to vote for their preferred candidates. Through regional elections, local communities can determine their own destiny in relation to their interests in the region.¹This is emphasized in Law Number 1 of 2015 as amended several times, most recently by Law Number 6 of 2020 (hereinafter referred to as the Election Law), which states that "The Election of Governors, Regents, and Mayors, hereinafter referred to as Elections, is the implementation of people's sovereignty in Provinces and Regencies/Cities to elect Governors, Regents, and Mayors directly and democratically."

Elections in Indonesia are an implementation of the principles of democracy and regional autonomy as regulated in the 1945 Constitution of the Republic of Indonesia. Local democracy allows people to elect regional leaders directly, so that the aspirations of the people can be...represented in the implementation of regional government.²

¹Muhammad Asfar, *Designing Management Regional Election* (Surabaya: Library Eureka, 2006), p. 12.

²Supono, S., & Eko, E., *Legal Politics of Regional Head Elections in Indonesia*, Yogyakarta: Andi, 2023, p. 45.

Under Article 1, number 7 of the Election Law, elections in Indonesia are conducted by the General Elections Commission (KPU). Meanwhile, under Article 1, number 10 of the Elections Law, supervision of elections is carried out by the General Elections Supervisory Agency (Bawaslu).

The regional election process includes a series of stages including preparation, nomination, campaign, voting, and determination of election results.³If the results of the regional elections are not accepted by one of the contesting parties, an annulment of the election results can be submitted through the Constitutional Court.

Article 157 paragraph (4) of the Election Law states that "Election Participants may submit a request for cancellation of the determination of the vote count results by the Provincial KPU or Regency/City KPU to the Constitutional Court." This provision confirms that the state provides legal complaint space for candidate pairs who are declared losers in the Election contest to submit a request in accordance with the provisions of the Constitutional Court as stipulated in Constitutional Court Regulation Number 3 of 2024 concerning Procedures in Disputes over the Results of the Election of Governors, Regents, and Mayors.

According to a report released by the Constitutional Court on its official website on January 3, 2025, 309 election result disputes were registered across Indonesia for the 2024 elections. These included 23 cases involving disputes over the gubernatorial and vice-gubernatorial elections, 237 cases involving disputes over the regent and vice-regent elections, and 49 cases involving disputes over the mayoral and vice-mayoral elections.⁴

Of the 309 registered cases, 40 proceeded to the evidentiary hearing. These include three cases involving disputes over the results of the gubernatorial and vice-gubernatorial elections, three cases involving disputes over the results of the mayoral and vice-mayoral elections, and 34 cases involving disputes over the results of the regent and vice-regent elections. Following the evidentiary hearing, the Constitutional Court ruled on 24 cases, ordering a revote (PSU).

In the 24 cases decided to implement the revote, the Constitutional Court assessed violations that occurred during the 2024 Election. Based on the clustering of legal issues in the Constitutional Court's decisions, the most common occurred at the nomination stage and issues during the voting and vote counting stages. Eleven of the decisions that the Constitutional Court ruled to implement the revote were due to issues during the nomination stage. Seven of

³Haryanti, D., & Adhayanto, O., *Book of Election Law and Direct Regional Elections (Legal and Theoretical Review)*, Yogyakarta: Deepublish, 2023, p. 78.

⁴Constitutional Court Website, <https://www.mkri.id/berita/mk-registrasi-309-perkara-konstruksi-pilkada-2024-22028> accessed on October 10, 2025.

the decisions were due to issues during the voting and vote counting stages, while six others were due to TSM (Socially Transmitted Influence), money politics, and other issues.

One of the revote (PSU) phenomena that occurred during the 2024 regional elections occurred in Pesawaran Regency. The 2024 election in Pesawaran Regency experienced complex dynamics, ultimately leading to a dispute over the results in the Constitutional Court (MK), which culminated in MK Decision Number 20/PHPU.BUP-XXIII/2025, which ordered a revote (PSU).⁵

The 2024 Pesawaran Regent and Deputy Regent election was marred by a repeat election due to issues arising during the nomination process. The emergence of legal issues during the nomination process for the Regional Head and Deputy Regional Head, which has undergone a series of examinations by the Constitutional Court, is a fact that...should be a concern for both the Organizers and Election Participants.

Based on the background description above, the author is interested in writing a thesis research with the title "Reconstruction of the Regulations for the Nomination Stages for Regional Head Elections (Case Study of Re-voting in the 2024 Pesawaran Regent and Deputy Regent Election Based on Constitutional Court Decision Number 20/PHPU.BUP-XXIII/2025)".

2. Research Methods

This research is normative legal research, so the type of data used is secondary data. According to Soerjono Soekanto and Sri Mamudji⁶ that in normative legal research, library materials are basic data which in research (science) are classified as secondary data. According to Maria SW Soemardjono, library research is legal materials that can be used as objects in library studies, grouped into 3 (three) parts, namely primary legal materials, secondary legal materials, and tertiary legal materials.⁷

3. Results and Discussion

3.1. Legal Issues in the Nomination Stages in the 2024 Pesawaran Regent and Deputy Regent Election

Legal issues in the election process, particularly the nomination process, are a phenomenon inseparable from the complex relationship between legal norms, institutional implementation, and political dynamics. According to Lawrence M. Friedman's legal system theory, legal effectiveness is determined by three main

⁵Constitutional Court, Decision Number 20/PHPU.BUP-XXIII/2025, 2025

⁶Soerjono Soekanto and Sri Mamudji, *Research Methods...*, Op. cit., page 24

⁷Maria SW Soemardjono, *Loc.Cit.*, p. 23

elements: legal structure, legal substance, and legal culture.⁸. All three must work harmoniously for the law to function optimally.

In the context of elections, disharmony between these three elements often gives rise to legal issues. Thus, legal issues at the nomination stage are not only technical administrative in nature, but also reflect structural and normative issues within the electoral legal system. In the 2024 Pesawaran Regent and Vice Regent Election, a legal issue that arose concerned the validity of the candidate's required documents, particularly the diploma of one of the Regent candidates. This was confirmed by the Head of the Pesawaran Regency Election Supervisory Agency (Bawaslu), who stated that during the nomination stage of the Pesawaran Regent/Vice Regent Election, they encountered issues related to the validity of the required documents (one of the Regent Candidates' high school diplomas). This issue indicates doubts about the validity of documents that should be a fundamental requirement for nomination.

Based on the questionnaire answers obtained from the Chairperson of the Pesawaran Regency Election Supervisory Agency (Bawaslu), the chronology of legal problems that emerged during the nomination stage for the Regent and Deputy Regent of Pesawaran in 2024 can be mapped as follows:

1. Legal Issues During the Nomination Stage

According to the Pesawaran Regency Election Supervisory Agency (Bawaslu), legal issues in the 2024 Pesawaran Regent and Deputy Regent Election are divided into 3 sub-stages, namely:

- a. Administrative Verification Sub-Stage
- b. Factual Verification Sub-Stage
- c. Sub-Stages of Candidate Determination

In these three sub-stages, the legal issue that occurred was a lack of thoroughness in document verification. In its oversight of these sub-stages, the Pesawaran Regency Election Supervisory Agency (Bawaslu) found doubts about the validity of the candidate's administrative documents (one of which was the high school diploma of the Regent Candidate, namely Pesawaran Regent Candidate Number 1, Mr. Aries Sandi Darma Putra) which did not comply with the established standards.

The Pesawaran Regency Election Supervisory Agency (Bawaslu) received two reports and found one alleged violation related to the nomination process. On October 24, 2024, based on a report from the Association of Deregistered Mass

⁸Ifitah, A. (2017). *Pancasila Versus Globalization: Between Confrontation and Harmonization?* in Al Khanif et al., *Pancasila in the Vortex of Globalization*. Yogyakarta: LkiS.

Organizations and NGOs with Number: 004/Reg/LP/PB/08-11/X/2024, which essentially reported the alleged invalidity of Aries Sandi's diploma, the Pesawaran Election Supervisory Agency (Bawaslu) handled the violation through a legal review mechanism and summoned witnesses/experts.

On November 1, 2024, the Pesawaran Regency Election Supervisory Agency d a Recommendation Letter Number 291/PP.00.02/K.LA07/11/2024 dated November 1, 2024 addressed to the Pesawaran Regency Election Commission, which in essence stated that based on the Decision of the Plenary Meeting of the Pesawaran Regency Election Supervisory Agency Members regarding the alleged election violations as referred to in Report Number 004/Reg/LP/PB/08-11/X/2024, the Pesawaran Regency Election Supervisory Agency stated that the report was proven to be an Administrative violation and requested the Pesawaran Regency Election Commission to follow up in accordance with applicable laws and regulations.

Based on the recommendation from the Bawaslu of Pesawaran Regency, the Pesawaran Regency General Elections Commission (KPU) conducted a clarification process and a series of verification actions as well as coordination with the Lampung Province General Elections Commission (KPU) and the Lampung Province Education and Culture Office (Disdikbud) regarding the validity of the Certificate of Replacement of Diploma (SKPI) of Mr. Aries Sandi Darma Putra which was carried out on November 4, 2024. On November 7, 2024, the Pesawaran Regency General Elections Commission received a clarification letter from the Lampung Province Education and Culture Office Number 421/3606/V.01/DP.2/2024, which essentially stated that the Certificate of Replacement of Diploma (SKPI) of Aries Sandi was valid. On November 8, 2024, the Pesawaran Regency General Elections Commission (KPU) again coordinated with the Lampung Province Education and Culture Office as a final confirmation of the Clarification Letter that had been sent on November 7, 2024.

Based on several clarification and coordination efforts that have been undertaken, the Pesawaran Regency General Elections Commission (KPU) conducted a legal review and formulated conclusions. Based on this legal review, the KPU issued Letter Number 623/PL.02.2-SD/1809/2024 dated November 8, 2024, addressed to the Pesawaran Regency Elections Supervisory Agency (Bawaslu) in response to the recommendations sent to the KPU. The main contents of the KPU's letter are:

a. That the Lampung Province Education and Culture Office has issued a Certificate of Diploma Replacement Number 420/1801/V.01/DP.2C/2018 dated July 19, 2018, signed by the Head of the Lampung Province Education and Culture Office, Mr. Drs. Sulpakar, MM NIP 19690251989101002

b. That referring to the provisions of Article 7 letter (c) of Law Number 1 of 2015 concerning the Determination of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law, as has been amended several times, most recently by Law Number 6 of 2020 and Article 14 paragraph (2) letter c of the General Election Commission Regulation Number 8 of 2024 concerning the Nomination of Governors and Deputy Governors, Regents and Deputy Regents, and Mayors and Deputy Mayors as amended by the General Election Commission Regulation Number 10 of 2024, Mr. Aries Sandi Darma Putra has a final education of a Master's degree obtained from the University of Lampung, proven by a legalized Copy of a Certificate of Replacement of Diploma Number 7816/UN26/DT/2015 dated June 16, 2015 so that it meets the minimum education requirements of Senior High School or equivalent.

3.2. Judges' Considerations in Constitutional Court Decision Number 20/PHPU.BUP-XXIII/2025 regarding Legal Issues in the Nomination Stages for the 2024 Pesawaran Regent and Deputy Regent Election

3.2.1. Legal Considerations regarding the Constitutional Court's authority to adjudicate the Applicant's application

After the Constitutional Court examined the Petitioner's Petition, especially the *posita* and *petitum* sections of the petition, what the Petitioner essentially requested was a request for the annulment of the Decree of the General Election Commission of Pesawaran Regency Number 1635 of 2024 concerning the Determination of the Results of the Election of the Regent and Deputy Regent of Pesawaran Regency in 2024.

In its considerations, the Constitutional Court, in accordance with its authority, emphasized the phrase "until the formation of a special judicial body" in Article 157 paragraph (3) of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Determination of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law (Law 10/2016) which states, "Cases of disputes regarding the determination of the final stage of the vote acquisition results of the Election shall be examined and tried by the Constitutional Court until the formation of a special judicial body" has been declared contrary to the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) and has no binding legal force since the Constitutional Court Decision Number 85/PUU-XX/2022 which was pronounced in a plenary session of the Constitutional Court open to the public on September 29, 2022. Therefore, Article 157 paragraph (3) of Law 10/2016 in full should be read "Cases of disputes regarding the determination of the final stage of the vote acquisition results of the Election" The election is examined and tried by the Constitutional Court." Furthermore, Article 157 paragraph (4) of Law 10/2016 states, "Election participants can

submit a request to the Constitutional Court to cancel the determination of the results of the vote count by the Provincial KPU or Regency/City KPU."

Furthermore, the Court in its considerations harmonized the provisions in Article 22E paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which means that constitutionally, the 1945 Constitution of the Republic of Indonesia contains a spirit that requires the implementation of elections that are fair, democratic, and have integrity. This is in line with the constitutional obligation of the Constitutional Court as a constitutional court which must ensure that the implementation of regional elections does not violate the principles of elections which are direct, general, free, secret, honest, and fair.

One of the important keys to realizing the implementation of regional elections that are just, democratic, and have integrity is the enforcement of all legal instruments for regional elections in order to strengthen the legitimacy of the election results. Therefore, when placed in the context of the authority of the Court as regulated in Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia, the phrase "deciding disputes regarding general election results" must be interpreted as an effort to realize elections, including regional elections, that are just, democratic, and have integrity.

Because the Applicant's application is regarding the cancellation of KPU Decree Number 1635 of 2024 concerning the Determination of the Results of the 2024 Election of the Regent and Deputy Regent of Pesawaran Regency, the Court in this matter has the authority to adjudicate the Applicant's application.

3.2.2. Legal Considerations by the Court regarding the Deadline for Submitting an Application

As stipulated in Article 157 paragraph (5) of Law No. 10 of 2016 in conjunction with Article 7 paragraph (2) of Constitutional Court Regulation Number 3 of 2024 which in essence regulates the submission of an application for a Dispute Case regarding the Election Results of Governor, Deputy Governor, Regent and Deputy Regent as well as Mayor and Deputy Mayor can be submitted no later than 3 (three) working days from the announcement of the determination of the vote count results of the Election by the Provincial KPU and Regency/City KPU and the Application is submitted at the Court's Clerk's Office on Thursday, December 5, 2024, at 11.02 WIB based on the Deed of Submission of Electronic Applicant Application (e-AP3) No. 20/PAN.MK/e-AP3/12/2024 dated December 5, 2024. Therefore, based on this, the Court considers that the Applicant's application was submitted within the time limit as determined by statutory regulations.

3.3. Analysis and Reconstruction of Regulations/Legal Stages of Regional Head Election Nominations based on Constitutional Court Decision Number 20/PHPU.BUP-XXIII/2025

3.3.1. Philosophical Basis of Reconstruction: Justice, Certainty, and Legal Benefit

Regulatory reconstruction is essentially a systematic effort to rebuild legal norms deemed incapable of responding to demands for justice and legal certainty in society. Philosophically, the need to reconstruct regulations for the regional head nomination process rests on three basic legal values developed by Gustav Radbruch: justice (*Gerechtigkeit*), expediency (*Zweckmäßigkeit*), and legal certainty (*Rechtssicherheit*).⁹

Gustav views these three values as being in a constant state of tension (*Spannungsverhältnis*). In practice, situations arise where increasing formal legal certainty actually reduces the space for substantive justice, or vice versa. Therefore, the primary task of law is not to choose one value at the expense of another, but rather to continually weigh and balance the three in the concrete context.¹⁰

Gustav has argued that law emerges as a cultural idea and not always as formal law, but rather must lead to the ideal of law, namely justice. To achieve this ideal, one must remember its utility, the second fundamental element of the legal ideal itself. Utility necessitates legal certainty, and legal ideals demand justice and certainty, despite the understandable political conflict. Utility is a relativistic element, but not solely relative. Therefore, the extent to which utility outweighs justice or certainty is a matter for the political system to decide.¹¹

While the legal positivism paradigm of justice is the goal of law, it is also fully aware of the relativity of justice which often obscures other unimportant elements, namely the element of legal certainty. A frequently heard Dutch proverb is *sum jus, summa injuria, summa lex, summa crux*, which literally means that a harsh law will hurt, unless justice can help it.¹²

⁹Gustav Radbruch as quoted in: Muslih, M. 'Indonesian Legal State in the Perspective of Gustav Radbruch's Legal Theory (Three Basic Legal Values)', *Legalitas*, June Edition, Vol. 4 No. 1 (2013), p. 130. See also: Satjipto Rahardjo, *Legal Science* (Bandung: PT. Citra Aditya Bakti, 2012), p. 20

¹⁰Dialectics of Justice, Certainty, and Legal Utilization in Gustav Radbruch's Perspective on Indonesian Law, *Journal of Law and Public Policy Studies*, ISSN: 3031-8882 (2025), p. 5

¹¹W. Friedman, *Legal Theory, Theory and Philosophy of Law - Philosophical Idealism and Problems of Justice (Compilation II)* translated by Muhammad Arifin, Jakarta, Raja Grafindo Persada, 2014. P. 42.

¹²Ansori, Abdul Gafur, *Philosophy of Law, History of Schools and Meaning*, UGM, Yogyakarta, 2006. P. 89.

The theory of legal utility, or utilitarianism, holds that the purpose of law is to provide benefits to the greatest number of people. According to Jeremy Bentham, the theory of utility aims to provide maximum benefit and happiness to society, based on a social philosophy that every citizen desires happiness, and law is one of the tools to achieve this.¹³

The value of utility is the main objective of law, the utility in question is happiness, which does not question whether a legal product is fair or unfair, but depends on whether the law can provide happiness to society or not.¹⁴

Jan Michiel Otto defines legal certainty as the possibility now in certain situations such as¹⁵:

1. There are clear, consistent and easily accessible regulations, issued by and recognized by the state;
2. Government agencies implement these regulations consistently and also comply with and obey these regulations;
3. Citizens who adapt their behavior to these regulations;
4. Judges in the judiciary are independent and think about applying the legal rules consistently when they resolve legal disputes; and
5. Judicial decisions are concretely implemented.

Sudikno stated that legal certainty is a guarantee that the law can run properly, meaning that with legal certainty, individuals who have rights are those who have received a decision from the legal decision itself.¹⁶

The theory of legal certainty, according to several experts, states that laws are created to provide certainty for citizens and are intended to provide the broadest possible freedom to behave in accordance with the rules. By adhering to legal certainty, the government, policymakers, and citizens can conduct their lives properly and fulfill their rights and obligations, both as groups and individuals.

The Constitutional Court Decision Number 20/PHPU.BUP-XXIII/2025 is clear evidence of the weakness of legal certainty in the regional head nomination stage. The Pesawaran Regency General Elections Commission (KPU) has implemented formal verification procedures in accordance with PKPU No. 8 of

¹³Darji Darmodiharjo in Hyronimus Rhiti, *Philosophy of Law; Complete Edition (From Classics to Postmodernism)*, Yogyakarta; Atma Jaya University Yogyakarta, 2011. P. 159.

¹⁴Lilik Rasyidi in Zainuddin Ali, *Philosophy of Law*, Jakarta: Sinar Grafika, 2010. P. 59.

¹⁵Soeroso, *Introduction to Legal Science*, SinarGrafika, Jakarta, 2011. P. 13

¹⁶Sudikto Mertokusumi in Siti Halilah and Mhd Fakhurrahman Arif, "The Principle of Legal Certainty According to Experts," *Siyasah: Journal of Constitutional Law* 4, No. 2, (2021)

2024, but these formal procedures have proven unable to guarantee substantive justice because a candidate who did not meet the educational requirements was declared successful by the organizers. This condition indicates that the existing regulations experience a value gap; regulations exist, but are unable to guarantee the realization of the true legal objectives.¹⁷

The legal vacuum or legal imperfection in the nomination process is something that must be addressed by policymakers. This imperfection occurs because the procedure is complete, but in terms of substance there is no real certainty. This is because in the nomination process for regional heads in Pesawaran Regency, there was an incident where one of the candidate pairs stated that their high school diploma was lost. Ultimately, based on Article 8 of the Regulation of the Minister of Education and Culture Number 29 of 2014, it created confusion in assessing the validity of the candidate pair's high school diploma or not.

In the progressive legal perspective developed by Satjipto Rahardjo, law is not a finite scheme. It must continually evolve, change, and adapt to the dynamics of human life. Law must be continually analyzed and explored through progressive efforts to achieve truth and justice.¹⁸

According to Satjipto Rahardjo, no single legal formulation is absolutely correct, complete, or comprehensive. Therefore, legal interpretation and reconstruction are tools that can bridge the gaps in regulations' implementation.¹⁹

Therefore, the reconstruction of the regulations for the stages of regional head nominations described in this chapter is philosophically based on: first, the demand for substantive justice that every regional head candidate must truly fulfill the requirements that have been legally established, not just pass formal verification; second, the demand for legal certainty that the norms of requirements and verification mechanisms must be clear, firm, and not open to multiple interpretations; and third, the demand for benefit that this reconstruction must bring real benefits to the integrity of the regional elections and the sovereignty of the people.

3.3.2. Legal Basis: The Binding Power of Constitutional Court Decisions as a Basis for Changing Norms

Legally, the basis for the reconstruction of this regulation is the binding power of the Constitutional Court's decision which is final and binding as stated in Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia and

¹⁷Satjipto Rahardjo, *Progressive Law: A Synthesis of Indonesian Law* (Yogyakarta: Genta Publishing, 2009), p. 36.

¹⁸Satjipto Rahardjo, 'Progressive Law: Law that Liberates', *Progressive Law Journal*, Vol. 1 No. 1 (2005), p. 3.

¹⁹Satjipto Rahardjo, *Dissecting Progressive Law* (Jakarta: Kompas, 2006), p. 147.

Article 10 paragraph (1) of Law No. 7 of 2020 concerning the Third Amendment to Law No. 24 of 2003 concerning the Constitutional Court (MK Law).

The decision is final and binding according to Article 10 paragraph (1) of the Constitutional Court Law, which explains that the Constitutional Court's decision immediately obtains permanent legal force from the moment it is pronounced and no legal action can be taken. The final nature of the Constitutional Court's decision in this law also includes binding legal force.

The Constitutional Court's final and binding decisions have a wide-ranging impact. Therefore, each decision must be based on philosophical values and have binding legal certainty. It must also have values of justice. The Constitutional Court's task is to ensure that all legal products in the country do not conflict with our constitution.

Constitutional Court decisions are *erga omnes*, meaning they are not only binding on the parties to the case but also apply to all individuals, state institutions, government agencies, and all legal subjects without exception. Disobeying a Constitutional Court decision also violates the supremacy of the constitution as the highest law.²⁰

Maruarar Siahaan emphasized that the binding nature of the Constitutional Court's decision does not only apply to parties currently litigating at the Constitutional Court, but is also binding on all parties (*erga omnes*).²¹ Thus, the *ratio decidendi* of the Constitutional Court's decision Number 20/PHPU.BUP-XXIII/2025 binds the legislators (DPR and President) and the KPU as the legislators of the PKPU to immediately reconstruct the norms.

Titi Anggraini, an election law expert from the University of Indonesia, emphasized that the implementation of the Constitutional Court's decision, in all its forms, can even be directly implemented technically through KPU regulations without having to wait for changes to the law first.²²

4. Conclusion

Based on the results of research and discussions that have been described in the previous chapters regarding the analysis and reconstruction of the 2024 election nomination regulations with a case study of the re-voting in the 2024 Pesawaran Regent and Deputy Regent Election based on Constitutional Court Decision

²⁰Agus Maulidi, 'Legal Problems in Implementing Final and Binding Decisions of the Constitutional Court: A Legal State Perspective', *Ius Quia Iustum Law Journal*, Vol. 24 No. 4 (2018), p. 679

²¹Agus Maulidi, 'Questioning the Executorial Power of Final and Binding Decisions of the Constitutional Court', *Constitutional Journal*, Volume 16 Number 2 (June 2019), p. 317

²²Titi Anggraini (Lecturer at the Faculty of Law, University of Indonesia) as quoted in 'Interpreting the *Erga Omnes* Principle of the Constitutional Court Decision', *Hukumonline.com*, August 16, 2024

Number 20/PHPU.BUP-XXIII/2025, the following conclusions can be drawn: 1. Legal Issues in the Nomination Stages for the 2024 Pesawaran Regent and Deputy Regent Election. The legal problems that occurred in the nomination stage for the 2024 Pesawaran Regent and Deputy Regent Election stem from two main dimensions, namely the normative dimension and the implementative dimension. From the normative dimension, there is a legal vacuum (*rechtsvacuum*) in the regulations for regional head nominations, particularly regarding the standards for proving the validity of diploma replacement documents (Diploma Replacement Certificate/SKPI) as fulfillment of the candidate's educational requirements. Article 7 paragraph (2) letter c of Law Number 10 of 2016 only requires a minimum education of high school or equivalent without explicitly regulating the minimum standards of proof, the hierarchy of authorized validation institutions, or mandatory cross-institutional verification procedures. From the implementation dimension, the Pesawaran Regency KPU was proven to have only conducted a single verification through the Lampung Province Education and Culture Office without cross-verifying with the educational unit of origin or with the Data and Information Technology Center of the Ministry of Education and Culture. The weakness of this verification mechanism resulted in the passing of Regent Candidate Number 1 (Aries Sandi Darma Putra) who materially did not meet the requirements for high school education/equivalent, because the SKPI Package/Equivalency submitted was proven to be materially legally flawed. This condition is in line with Lawrence M. Friedman's view that disharmony between legal structure, legal substance, and legal culture will give rise to legal problems that impact the failure of optimal law enforcement. The legal issue then developed into a dispute over the election results at the Constitutional Court, which ultimately resulted in the issuance of Constitutional Court Decision Number 20/PHPU.BUP-XXIII/2025 which disqualified the Regent candidate Aries Sandi Darma Putra and ordered a revote (PSU) within a period of 90 (ninety) days from the date the decision was pronounced. This fact proves that the lack of norms at the nomination stage is not merely a technical administrative issue, but rather a structural problem in the legal system of regional head elections in Indonesia which has the potential to cause legal uncertainty and harm the constitutional rights of all voters. 2. Legal Considerations of the Constitutional Court in Decision Number 20/PHPU.BUP-XXIII/2025. The Constitutional Court in Decision Number 20/PHPU.BUP-XXIII/2025 systematically compiled legal considerations through four stages of examination, namely considerations regarding the Court's authority, the deadline for submitting the application, the legal standing of the Applicant, and the main points of the case. In considering the authority, the Court emphasized that based on Article 157 paragraph (3) of Law Number 10 of 2016 as interpreted through the Constitutional Court Decision Number 85/PUU-XX/2022, cases of disputes over election results are examined and tried by the Constitutional Court permanently. In considering the legal standing of the

Petitioner, the Court set aside the provisions on the vote difference threshold as regulated in Article 158 of Law 10/2016 by using jurisprudential discretion based on the existence of special events (extraordinary circumstances) in the form of alleged absence/invalidity of the high school diploma of candidate for Regent Number 1. In considering the main case, the Court used a comprehensive method of proof, involving the examination of witnesses, documentary evidence, and expert testimony. Based on the trial facts, the Court found that: (a) Aries Sandi Darma Putra never completed Grade 3 of high school education; (b) the SKPI Package/Equivalency issued in his name contained material legal defects because it was not supported by the fact that the person concerned had taken the equivalency/exequency exam; and (c) there were two SKPIs issued for the same person, something that was declared unusual by the authorized officials of the Lampung Provincial Education Office. Based on these considerations, the Court decided to disqualify the candidate for Regent Aries Sandi Darma Putra and ordered a PSU with a new candidate pair proposed by the political party or coalition of political parties that previously supported Candidate Pair Number 1 without including Aries Sandi Darma Putra. This ruling reflects the application of Gustav Radbruch's theory of justice, placing substantive justice above formal legal certainty. Although the Pesawaran KPU had procedurally implemented the available verification mechanisms, the Court held that substantive justice cannot be sacrificed for the sake of procedural legal certainty alone. Therefore, the Constitutional Court disqualified the ineligible candidates even though the determination process had already taken place.

3. Analysis and Reconstruction of Regulations on the Stages of Nomination for Regional Head Elections. Based on the ratio decidendi of the Constitutional Court Decision Number 20/PHPU.BUP-XXIII/2025 and an in-depth analysis of the identified normative gaps, regulatory reconstruction is required at three levels simultaneously and complementary to each other. First, reconstruction at the legislative level (Law No. 10 of 2016) through the addition of Article 7A, which explicitly regulates the standards for verifying educational documents, the hierarchy of validation institutions, and the tiered verification procedures that the KPU must follow; and the addition of Article 45A, which regulates the obligation to provide open documentation of all administrative research processes and an ethical accountability mechanism for negligent organizers. This reconstruction requires a legislative process through the House of Representatives (DPR) and the President. Second, reconstruction at the KPU Regulation level (PKPU No. 8 of 2024) through: (a) the addition of a technical attachment in the form of a matrix of candidate requirement documents and the hierarchy of validation institutions; (b) the establishment of standard operating procedures for standard administrative research; and (c) the establishment of a reverification mechanism that the KPU must follow when receiving Bawaslu recommendations regarding doubts about required documents. Reconstruction at the PKPU level can be implemented more quickly without waiting for a revision of the law. Third, reconstruction at the level of

coordination between ministries/institutions through the preparation of a Memorandum of Understanding (MoU) or Cooperation Agreement between the Indonesian General Elections Commission (KPU) and the Ministry of Education and Culture, the Ministry of Home Affairs, the Indonesian Supreme Audit Agency (BPK), and the Ministry of Finance's Directorate General of State Assets (DJKN), which specifically regulates the verification protocol for regional head candidate requirements, including response deadlines, standard request and response formats, and escalation mechanisms. This regulatory reconstruction is based on three legal philosophies: the demand for substantive justice, which requires every regional head candidate to truly and legitimately fulfill the requirements; the demand for legal certainty, which requires the requirements and verification mechanisms to be clear and open to multiple interpretations; and the demand for utility, which requires this reconstruction to bring tangible benefits to the integrity of the regional elections and the sovereignty of the people. This reconstruction is also based on the *erga omnes*, final, and binding nature of the Constitutional Court's ruling, which obliges all state institutions to respect and implement the substance of the ruling.

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