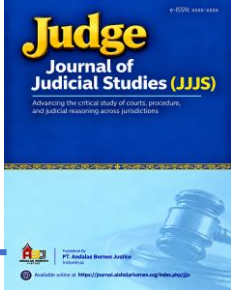
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Finality of Constitutional Court Judicial Decisions and the Validity of the Elected President's Office in Indonesia

Finalitas Putusan Peradilan Mahkamah Konstitusi dan Keabsahan Jabatan Presiden Terpilih di Indonesia

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Abstract

Article 24C of the 1945 Constitution renders decisions of the Constitutional Court final, and the Constitutional Court Law construes finality as including binding force, so that all legal remedies are closed. In presidential election disputes that closure acquires a distinctive character, because the office whose contest has been adjudicated is thereafter occupied and the question of validity ceases to be reversible. This study examines the scope of finality and its operation in such disputes. Employing normative legal research with statutory, case, and conceptual approaches, it finds that no presidential election petition has ever been granted, that finality attaches asymmetrically in impeachment proceedings, and that a decision whose process was found ethically defective nonetheless retains full legal force. It recommends that finality be distinguished from immunity from review, and that the scope of electoral adjudication be clarified.

Abstrak

Pasal 24C UUD 1945 menjadikan putusan Mahkamah Konstitusi bersifat final, dan Undang-Undang Mahkamah Konstitusi memaknai finalitas itu mencakup kekuatan hukum mengikat, sehingga seluruh upaya hukum tertutup. Dalam sengketa hasil pemilihan presiden, ketertutupan tersebut memiliki ciri tersendiri karena jabatan yang diperebutkan setelah itu telah diduduki dan persoalan keabsahannya tidak lagi dapat dipulihkan. Penelitian ini mengkaji ruang lingkup finalitas dan cara kerjanya dalam sengketa dimaksud. Dengan penelitian hukum normatif melalui pendekatan perundang-undangan, kasus, dan konseptual, penelitian ini menemukan bahwa tidak pernah ada permohonan sengketa hasil pemilihan presiden yang dikabulkan, bahwa finalitas melekat secara asimetris dalam proses pemakzulan, dan bahwa putusan yang proses pengambilannya dinyatakan cacat etik tetap berkekuatan hukum penuh. Penelitian ini merekomendasikan agar finalitas dibedakan dari ketidaktersentuhan dari pengujian, serta agar ruang lingkup peradilan pemilu diperjelas.

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A. INTRODUCTION

1. Background

Article 24C(1) of the 1945 Constitution confers upon the Constitutional Court the authority to adjudicate at first and last instance, its decisions being final, in four matters, among them disputes concerning the results of general elections.[1] Article 10(1) of the Constitutional Court Law repeats the formula, and the Elucidation to that provision states that finality in this Law includes binding force.[2] The combination produces a proposition of considerable severity: a decision of the Constitutional Court acquires legal force upon pronouncement, no further remedy of any kind is available against it, and it must be obeyed by everyone.[3]

That severity is deliberate and, in the ordinary case, defensible. A constitutional adjudicator that could be appealed from would not be a constitutional adjudicator, and the doctrine of *erga omnes* which the literature attaches to such decisions extends their binding force beyond the parties to the proceedings to everyone within the jurisdiction.[4] Maruarar Siahaan's account, which has passed into general usage, treats the measure of finality as the absence of any further forum to which the matter may be taken.[5] Moh. Mahfud MD states the proposition more bluntly: a decision of the Constitutional Court that is final and binding cannot be contested even where it is thought to be wrong.[6]

In disputes concerning the result of a presidential election, however, finality acquires a character it does not possess elsewhere. Two features distinguish such disputes. The first is temporal compression: Law No. 7 of 2017 requires the Court to decide within fourteen days of registration,[7] so that a dispute capable of determining who will exercise executive power for five years must be resolved in a period shorter than that allowed for many ordinary civil appeals. The second is irreversibility: once the elected candidate has been inaugurated, the question of validity ceases to be a question

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1 The 1945 Constitution of the Republic of Indonesia, arts. 7A, 7B, 22E, and 24C(1).
2 Law No. 24 of 2003 concerning the Constitutional Court, as amended by Law No. 8 of 2011 and Law No. 7 of 2020, art. 10(1) and the Elucidation thereto.
3 Antoni Putra, "Sifat Final dan Mengikat Putusan Mahkamah Konstitusi dalam Pengujian Undang-Undang," *Jurnal Yudisial* 14, no. 3 (2022): 293, https://doi.org/10.29123/jy.v14i3.425.
4 Ardiansyah Arbie, Toar Neman Palilingan, and Harly Stanly Muaja, "Sifat Final dan Mengikat Putusan Mahkamah Konstitusi Berdasarkan Asas Erga Omnes," *Lex Privatum* 13, no. 1 (2024): 811.
5 Maruarar Siahaan, *Hukum Acara Mahkamah Konstitusi Republik Indonesia* (Jakarta: Sinar Grafika, 2011), 213–220.
6 Moh. Mahfud MD, *Konstitusi dan Hukum dalam Kontroversi Isu* (Jakarta: Rajawali Pers, 2010), 279–286.
7 Law No. 7 of 2017 concerning General Elections, arts. 473–475.

about who should hold the office and becomes a question about whether the person already holding it holds it lawfully. The remedy that an electoral court ordinarily gives, namely a fresh count or a fresh vote, is no longer available in any practical sense.

The empirical record reflects that difficulty. A systematic study of the Court's decisions in presidential election disputes from 2004, 2009, 2014, 2019, and 2024 concludes that every petition was rejected and that no such petition has ever been granted.[8] The uniformity of that record is itself a datum requiring explanation, and the explanations offered in the literature range from the quality of the evidence adduced to the structural constraints under which the Court operates.[9] Abdurrachman Satrio situates the jurisdiction within the wider phenomenon of the judicialisation of politics, in which the resolution of questions of a political nature migrates from political institutions to judicial ones.[10]

The 2024 proceedings introduced a feature absent from all earlier ones. In Decisions No. 1/PHPU.PRES-XXII/2024 and No. 2/PHPU.PRES-XXII/2024, delivered on 22 April 2024, the Court again rejected both petitions, but for the first time in the history of presidential election disputes three justices recorded dissenting opinions, five of the eight justices forming the majority.[11] Research on the point concludes that rulings lacking decisiveness, such as those delivered in the 2024 presidential election disputes, may weaken public perceptions of electoral legitimacy and impede the realisation of electoral justice.[12] A decision that is final but divided occupies an uncomfortable position: it closes the legal question while leaving the constitutional question visibly open.

A further element complicates the picture. Decision No. 90/PUU-XXI/2023, delivered on 16 October 2023, construed Article 169(q) of the Election Law so that the requirement of a minimum age of forty years for presidential and vice-presidential candidates is satisfied alternatively by having held or currently holding an office filled

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8 Ning Ayunda Chofifi and Eny Kusdarini, "Perkembangan Putusan Mahkamah Konstitusi dalam Menangani Perkara Perselisihan Hasil Pemilihan Umum Presiden," *Jurnal Hukum Ius Quia Iustum* 31, no. 2 (2024): 410, https://doi.org/10.20885/iustum.vol31.iss2.art8.

9 Abdurrachman Satrio, "Kewenangan Mahkamah Konstitusi Memutus Perselisihan Hasil Pemilu sebagai Bentuk Judicialization of Politics," *Jurnal Konstitusi* 12, no. 1 (2015): 119, https://doi.org/10.31078/jk1217.

10 Satrio, "Kewenangan Mahkamah Konstitusi Memutus Perselisihan Hasil Pemilu," 128.

11 Andi Redani Suryanata and Muhammad Zaki Mubarrak, "Analisis Putusan Mahkamah Konstitusi Nomor 1/PHPU.PRES-XXII/2024 tentang Perselisihan Hasil Pemilihan Umum Presiden Tahun 2024 dalam Memaknai Peran Presiden di Pemilihan Umum," *UNES Law Review* 6, no. 4 (2024): 12175, https://doi.org/10.31933/unesrev.v6i4.2191.

12 Retno Widiastuti, "The Dynamics of the Constitutional Court's Authority in Adjudicating Presidential Election Disputes in 2024," *Jurnal Konstitusi* 23, no. 1 (2026): 99, https://doi.org/10.31078/jk2315.

through a general election, including a regional head election.[13] The decision enabled a candidacy that would otherwise have been barred, and in November 2023 the Honorary Council of the Constitutional Court found that the Chief Justice had committed a serious ethical violation in his handling of the case.[14] The ethical finding did not, however, disturb the legal force of the decision, which remained final and binding and had by then produced consequences that could not be undone.[15]

That configuration presents the question this article examines. If a decision remains fully effective notwithstanding a finding that the process by which it was reached was defective, and if the office whose occupancy it enabled has since been assumed, what remains of the relation between finality and validity? The Indonesian constitutional order supplies one answer, namely impeachment under Articles 7A and 7B of the Constitution, but the grounds there enumerated are specific and do not include a defect in the process of candidacy.[16] Scholarship on that mechanism has identified a further anomaly: the Constitutional Court's decision in an impeachment proceeding binds the House of Representatives but does not bind the People's Consultative Assembly, which may decline to act upon it, so that finality operates asymmetrically in precisely the proceeding where it matters most.[17]

The stakes of the question are constitutional rather than merely procedural. A fixed presidential term is an instrument of stability: it removes from ordinary politics the recurring question of who governs, and it does so by making the outcome of a periodic election conclusive for a defined period.[18] Finality in electoral adjudication serves that same end, closing the contest so that government may proceed. The difficulty arises where the instrument designed to secure stability is asked to absorb a defect that goes to the legitimacy of the arrangement it stabilises, and the Indonesian literature on the consolidation of democracy has long identified that tension as a structural feature of the

[13] Constitutional Court of the Republic of Indonesia, Decision No. 90/PUU-XXI/2023, 16 October 2023.
[14] Honorary Council of the Constitutional Court, Decision No. 2/MKMK/L/11/2023, November 2023.
[15] Mangara Maidlando Gultom et al., "Dampak Putusan Majelis Kehormatan Mahkamah Konstitusi yang Mengabulkan Laporan Dugaan Pelanggaran Kode Etik dan Perilaku Hakim Konstitusi terkait Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023," *Jurnal De Jure* 16, no. 1 (2024), https://doi.org/10.36277/jurnaldejure.v16i1.928.
[16] The 1945 Constitution of the Republic of Indonesia, art. 7B(1), (3), (5), (6), and (7).
[17] Sunarto Efendi, Sylli Meliora Sterigma, and Nur Alfitra Mappuna, "Menakar Kekuatan Mengikat Putusan Mahkamah Konstitusi dalam Pemberhentian Presiden dan/atau Wakil Presiden di Indonesia," *Jurnal Konstitusi dan Demokrasi* 4, no. 2 (2024), https://doi.org/10.7454/JKD.v4i2.1406.
[18] Ni'matul Huda, *Hukum Tata Negara Indonesia*, rev. ed. (Jakarta: Rajawali Pers, 2013), 255–262.

post-1998 constitutional order.[19]

It should be said at the outset what this article does not argue. It does not argue that any decision of the Constitutional Court was wrongly decided, which is a question of substantive constitutional law outside its scope; nor does it argue that an inaugurated President holds office unlawfully, which no Indonesian legal instrument provides any forum to determine. What it examines is the structure of the arrangement: what finality means, what it closes, and what it leaves open. That examination is possible only if finality is distinguished from immunity from assessment, which is the first of the three findings set out below.[20]

The literature supplies the components of an answer without assembling them. One body of work examines the finality and binding force of Constitutional Court decisions in the abstract, concluding that all legal remedies are closed and that the decision must be obeyed by everyone including the Supreme Court.[21] A second examines the Court's record in presidential election disputes.[22] A third examines Decision No. 90/PUU-XXI/2023 and the controversy surrounding it.[23] A fourth examines the design of electoral adjudication and proposes institutional alternatives.[24] None of them examines what finality means once the office has been assumed, which is the question this article addresses. That gap constitutes its novelty.

This study finds that finality in Indonesian constitutional law is construed as immunity from review rather than as the exhaustion of remedies, which are distinct propositions; that the uniform rejection of presidential election petitions is attributable in part to a conception of electoral adjudication confined to the verification of vote tabulation; and that the asymmetry of finality in impeachment proceedings leaves the constitutional order without a coherent response to a defect discovered after

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19 Ria Casmi Arrsa, "Pemilu Serentak dan Masa Depan Konsolidasi Demokrasi," *Jurnal Konstitusi* 11, no. 3 (2014): 518, https://doi.org/10.31078/jk1136.

20 Rusnan, Johannes Johny Koynja, and Ashari, "Bentuk Putusan Mahkamah Konstitusi yang Bersifat Final dan Mengikat (Suatu Kajian Filosofis)," *Jurnal Diskresi* 3, no. 2 (2024): 151–165, https://doi.org/10.29303/diskresi.v3i2.6025.

21 Putra, "Sifat Final dan Mengikat Putusan Mahkamah Konstitusi," 305.

22 Chofifi and Kusdarini, "Perkembangan Putusan Mahkamah Konstitusi dalam Menangani Perkara Perselisihan Hasil Pemilihan Umum Presiden," 425.

23 Hardianto, S. W. Krida Sakti, and Meliza, "Masalah Batas Usia Calon Presiden dan Calon Wakil Presiden: Studi Open Legal Policy dalam Putusan MK No. 90/PUU-XXI/2023," *Jurnal Supremasi* 14, no. 1 (2024): 17, https://doi.org/10.35457/supremasi.v14i1.3313.

24 Moch. Marsa Taufiqurrohman, Jayus, and A'an Efendi, "Integrasi Sistem Peradilan Pemilihan Umum melalui Pembentukan Mahkamah Pemilihan Umum," *Jurnal Konstitusi* 18, no. 3 (2021): 565, https://doi.org/10.31078/jk1834.

inauguration.

2. Research Questions

Proceeding from the background set out above, this study addresses three questions. First, what is the scope of the finality attaching to decisions of the Constitutional Court under Article 24C(1) of the 1945 Constitution and Article 10(1) of the Constitutional Court Law? Second, how does that finality operate in disputes concerning the result of a presidential election, and what is the position of a decision whose process of adoption has been found ethically defective? Third, what legal avenues remain available after the inauguration of the elected candidate, and what reforms follow?

The three questions are sequential. The first establishes the doctrinal scope of finality; the second measures its operation in the particular field; and the third examines the consequences once the office has been assumed.

3. Research Methods

This study employs normative legal research, which treats law as a system of norms and seeks a prescription concerning what ought to be done in respect of a given legal issue rather than a description of social behaviour.[25] Three approaches are combined. The statutory approach is directed at Articles 7A, 7B, 22E, and 24C of the 1945 Constitution, at Article 10(1) of Law No. 24 of 2003 as amended together with its Elucidation, and at the provisions of Law No. 7 of 2017 governing presidential election disputes. The case approach is directed at Decisions No. 1/PHPU.PRES-XII/2014, No. 01/PHPU-PRES/XVII/2019, No. 1/PHPU.PRES-XXII/2024, and No. 2/PHPU.PRES-XXII/2024, together with Decisions No. 90/PUU-XXI/2023 and No. 141/PUU-XXI/2023 and the decision of the Honorary Council of the Constitutional Court. The conceptual approach draws upon the doctrine of *erga omnes*, upon the theory of constitutionalism,[26] and upon the concept of electoral justice.[27]

The legal materials are of three orders. Primary legal materials comprise the Constitution, the statutes identified above, and the judicial decisions enumerated. Secondary legal materials comprise scholarly monographs and peer-reviewed articles, with particular reliance upon the published analyses of the decisions under examination.

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[25] Peter Mahmud Marzuki, *Penelitian Hukum*, rev. ed. (Jakarta: Kencana Prenada Media, 2014), 133–137.
[26] Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia* (Jakarta: Sinar Grafika, 2010), 152–159.
[27] Topo Santoso and Ida Budhiati, *Pemilu di Indonesia: Kelembagaan, Pelaksanaan, dan Pengawasan* (Jakarta: Sinar Grafika, 2019), 310–318.

Tertiary materials comprise legal dictionaries and encyclopaedias. The materials were collected through documentary study and analysed qualitatively by means of interpretation, systematisation, and argumentation.

B. DISCUSSION/ ANALYSIS

The discussion follows the sequence of the three research questions. The first section reconstructs the scope of finality; the second examines its operation in presidential election disputes; and the third considers the position after inauguration and sets out prescriptive proposals.

1. The Scope of Finality in Constitutional Court Decisions

a. Article 24C of the Constitution and Article 10 of the Constitutional Court Law

The constitutional text is brief. Article 24C(1) provides that the Constitutional Court adjudicates at first and last instance and that its decision is final.[28] The provision says nothing of binding force, and that omission has been described in the literature as a drafting defect of some consequence, since finality and bindingness are analytically distinct: a decision may be final in the sense that no appeal lies from it without being binding upon persons who were not parties to the proceedings.[29]

The gap was filled at the statutory level. Article 10(1) of Law No. 24 of 2003 repeats the constitutional formula, and its Elucidation provides that finality under that Law includes binding force.[30] The literature treats that Elucidation as the textual anchor of the *erga omnes* character of Constitutional Court decisions, that is to say their application to everyone rather than only to the litigants.[31] Bagir Manan's treatment of constitutional theory supplies the underlying rationale: a determination of what the Constitution means cannot sensibly bind only those who happened to raise the question.[32]

Two consequences are conventionally drawn. The first is that no legal remedy of any kind lies against a decision of the Court, so that the matter is closed to review, reconsideration, or collateral attack.[33] The second is that the decision takes effect

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28 The 1945 Constitution of the Republic of Indonesia, art. 24C(1).
29 Uci Sanusi, "Pemakzulan Presiden di Indonesia: Studi Putusan Final dan Mengikat oleh Mahkamah Konstitusi untuk Menciptakan Kepastian Hukum," *Supremasi Hukum: Jurnal Kajian Ilmu Hukum* 7, no. 2 (2018): 91–113, https://doi.org/10.14421/sh.v7i2.2042.
30 Law No. 24 of 2003 concerning the Constitutional Court, art. 10(1).
31 Arbie, Palilingan, and Muaja, "Sifat Final dan Mengikat Putusan Mahkamah Konstitusi," 817.
32 Bagir Manan, *Teori dan Politik Konstitusi* (Yogyakarta: FH UII Press, 2004), 72–79.
33 Putra, "Sifat Final dan Mengikat Putusan Mahkamah Konstitusi," 305.

immediately upon pronouncement without any implementing act, a feature that distinguishes it from the judgments of ordinary courts, which ordinarily require execution.[34] Jimly Asshiddiqie situates both within the broader architecture of Indonesian constitutionalism, in which the Court occupies the position of the authoritative interpreter of the Constitution.[35]

b. Erga Omnes and the Closure of Remedies

The two consequences just stated are frequently conflated, and the conflation matters for the argument of this article. Closure of remedies is a proposition about procedure: it states that no forum exists to which a dissatisfied party may take the matter. *Erga omnes* is a proposition about scope: it states who is bound by the determination. Neither entails the third proposition sometimes attributed to them, namely that the decision is thereafter immune from any form of constitutional assessment whatever.

The distinction is visible in the Court's own practice. The Court has on numerous occasions revisited questions it had previously determined, reaching different conclusions where the constitutional basis of the earlier determination was shown to be inadequate or where circumstances had changed, and the literature on the evolution of its jurisprudence treats that capacity as a feature rather than a defect.[36] A rule that forbade all reconsideration would freeze constitutional meaning at the moment of first determination, which no constitutional system accepts. What finality forbids is a further forum, not a further thought.

The practical limits of finality are equally instructive. Research examining the implementation of Constitutional Court decisions observes that the Court possesses de facto no supporting instrument by which to enforce its own rulings, so that compliance depends upon the willingness of other organs.[37] Studies of the legislative response to decisions record substantial delays and occasional non-compliance,[38] and the literature

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34 Rusnan, Koynja, and Ashari, "Bentuk Putusan Mahkamah Konstitusi yang Bersifat Final dan Mengikat."
35 Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, 188.
36 Luthfi Widagdo Eddyono, "The Constitutional Court and Consolidation of Democracy in Indonesia," *Jurnal Konstitusi* 15, no. 1 (2018): 6, https://doi.org/10.31078/jk1511.
37 Cornelia Angelica, Simplexius Asa, and Rizal Thene, "Dampak Asas Erga Omnes dalam Putusan Mahkamah Konstitusi: Studi tentang Batasan Legal Standing dalam Pengajuan Permohonan Pengujian Undang-Undang di Mahkamah Konstitusi," *Journal of Administrative and Social Science* 6, no. 1 (2025): 266, https://doi.org/10.55606/jass.v6i1.2127.
38 Liana Nasir, Syamsul Rijal, and Muhamad Aksan Akbar, "Kedudukan Putusan Mahkamah Konstitusi dalam Pembentukan Undang-Undang di Indonesia," *Jurnal USM Law Review* 8, no. 2 (2025): 622–638, https://doi.org/10.26623/julr.v8i2.11333.

on the Court's procedural rules notes that the Court has had to regulate its own procedure by internal instrument in the absence of statutory provision.[39] A finality that cannot be enforced is a finality of a particular kind, and the gap between its formal and its practical scope is the space within which the questions examined below arise.

Table 1. Dimensions of Finality in Constitutional Court Decisions

Dimension	Legal basis	Content	Practical limit
Closure of remedies	Article 24C(1) of the Constitution	No further forum available	Does not preclude reconsideration by the Court itself
Binding force	Elucidation to Article 10(1) of Law No. 24 of 2003	Decision binds as pronounced	Depends upon compliance by other organs
Erga omnes	Doctrine derived from binding force	Binds everyone, not only the parties	Contested in impeachment proceedings
Immediate effect	Article 10(1) of Law No. 24 of 2003	Effective upon pronouncement without implementing act	No supporting instrument of enforcement
Immunity from assessment	Not stated in any instrument	Frequently inferred from the above	Not entailed by closure of remedies

Source: processed from the 1945 Constitution, Law No. 24 of 2003 and its Elucidation, and the scholarly literature cited in this section.

Table 1 supports the first finding of this study. Of the five dimensions commonly attributed to finality, four rest upon an identifiable textual basis and the fifth does not. The proposition that a decision of the Court is immune from constitutional assessment is an inference rather than a rule, and the inference does not follow.

c. Finality and the Theory of Constitutional Adjudication

The Indonesian construction of finality is not the only one available, and placing it against alternatives clarifies what it does and does not require. Comparative work surveying the resolution of electoral disputes in constitutional democracies records considerable variation, both in the identity of the adjudicator and in the effect attributed to its determinations.[40] Some systems vest the function in an ordinary supreme court, some in a dedicated electoral tribunal, and some in the legislature itself; and the conclusiveness attributed to the determination varies accordingly.

Two propositions recur across that variation. The first is that conclusiveness is

[39] Aan Eko Widiarto, "Implikasi Hukum Pengaturan Hukum Acara Mahkamah Konstitusi dalam Bentuk Peraturan Mahkamah Konstitusi," *Jurnal Konstitusi* 16, no. 1 (2019): 25, https://doi.org/10.31078/jk1612.

[40] Bisariyadi et al., "Komparasi Mekanisme Penyelesaian Sengketa Pemilu di Beberapa Negara Penganut Paham Demokrasi Konstitusional," *Jurnal Konstitusi* 9, no. 3 (2012): 534, https://doi.org/10.31078/jk936.

attributed to the determination of the contest rather than to the reasoning by which it was reached. A declaration that a candidate was validly elected settles who holds the office; it does not settle for all time the correctness of every proposition of law relied upon along the way.[41] The second is that conclusiveness is temporally bounded by the term of the office. A decision conclusive for the present term does not purport to determine the lawfulness of arrangements in subsequent ones, which is why constitutional litigation about electoral rules continues between elections.[42]

Both propositions are consistent with the Indonesian text and with the practice of the Court, which has repeatedly reconsidered the constitutionality of electoral provisions it had previously addressed.[43] What is inconsistent with them is the stronger proposition sometimes advanced in Indonesian discourse, namely that the finality of a decision forecloses discussion of its correctness. That proposition confuses the authority of a determination with the immunity of its reasoning, and the confusion has consequences, since it makes it difficult to maintain a scholarly literature on the Court's work without appearing to challenge the legal force of its rulings.[44]

Maruarar Siahaan's formulation is instructive here. The measure of finality, on his account, is whether a further forum exists to which the matter may be taken.[45] Stated in that form the doctrine is a proposition about institutional architecture, not about epistemic closure, and nothing in it precludes the evaluation of a decision by scholars, by the legislature acting within its own competence, or indeed by the Court itself upon a later occasion.[46]

2. Finality in Presidential Election Disputes

a. The Pattern of Decisions from 2004 to 2024

The record of presidential election disputes before the Constitutional Court is remarkable for its uniformity. The systematic study of the field concludes that in 2004, 2009, 2014, 2019, and 2024 the Court rejected the petitions and that no presidential

[41] Eddyono, "The Constitutional Court and Consolidation of Democracy in Indonesia," 18.
[42] Pan Mohamad Faiz, "Memperkuat Prinsip Pemilu yang Teratur, Bebas, dan Adil melalui Pengujian Konstitusionalitas Undang-Undang," *Jurnal Konstitusi* 14, no. 3 (2017): 672–700, https://doi.org/10.31078/jk14310.
[43] Janedjri M. Gaffar, "Peran Putusan Mahkamah Konstitusi dalam Perlindungan Hak Asasi Manusia terkait Penyelenggaraan Pemilu," *Jurnal Konstitusi* 10, no. 1 (2013): 8, https://doi.org/10.31078/jk1011.
[44] Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, 188.
[45] Siahaan, *Hukum Acara Mahkamah Konstitusi Republik Indonesia*, 247.
[46] Manan, *Teori dan Politik Konstitusi*, 95.

election petition has ever been granted.[47] Earlier analysis of the 2004 proceedings situates that outcome within the framework of constitutional democracy and treats the Court's restraint as a deliberate posture.[48] Analysis of the 2014 decision reaches a comparable conclusion.[49]

The 2019 proceedings illustrate the pattern at its most pronounced. Decision No. 01/PHPU-PRES/XVII/2019 ran to some 1,944 pages, was reached by nine justices without any dissenting opinion, and rejected the petition in its entirety, the Court holding that the petitioner's contentions were without legal foundation.[50] The petition had been constructed principally upon allegations of structured, systematic, and massive violations, and the Court's treatment of that category has been the subject of sustained analysis.[51]

Two explanations of the pattern circulate in the literature, and they are not mutually exclusive. The first is evidential: petitions have failed because the evidence adduced did not establish violations capable of altering the result. The second is conceptual: the Court's own conception of its jurisdiction has been confined largely to the verification of vote tabulation, so that allegations concerning the fairness of the process preceding the count fall outside the frame of the inquiry.[52] Scholarship on the scope of the Court's competence in electoral matters addresses that question directly,[53] and proposals for the reconstruction of the jurisdiction proceed from it.[54]

b. The 2024 Decisions and the First Dissenting Opinions

The decisions of 22 April 2024 broke the pattern in one respect while confirming it in another. The Court again rejected both petitions, but three of the eight justices sitting

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47 Chofifi and Kusdarini, "Perkembangan Putusan Mahkamah Konstitusi dalam Menangani Perkara Perselisihan Hasil Pemilihan Umum Presiden," 425.

48 Rahman Yasin, "Telaah Putusan MK dalam Sengketa PHPU Pilpres 2004 (Perspektif Negara Demokrasi Konstitusional)," *Jurnal Konstitusi* 11, no. 4 (2014): 659, https://doi.org/10.31078/jk1143.

49 Constitutional Court of the Republic of Indonesia, Decision No. 1/PHPU.PRES-XII/2014, 21 August 2014.

50 Constitutional Court of the Republic of Indonesia, Decision No. 01/PHPU-PRES/XVII/2019, 27 June 2019.

51 Putri Rizkika Bahri, "Analisis Putusan MK Nomor 01-PHPU-PRES/XVII/2019 tentang Sengketa Perselisihan Hasil Pemilihan Umum Presiden dan Wakil Presiden," *Jurnal Ilmiah Wahana Pendidikan* 9, no. 2 (2023): 443–452, https://doi.org/10.5281/zenodo.7578952.

52 Aan Eko Widiarto et al., "From Vote Tabulation to Electoral Justice: Rethinking the Constitutional Court's Authority in Electoral Dispute Cases," *Journal of Law and Legal Reform* 7, no. 3 (2026): 1169–1218, https://doi.org/10.15294/jllr.v7i3.49839.

53 Firdaus et al., "Ruang Lingkup Kompetensi Mahkamah Konstitusi Memutus Perselisihan Hasil Pemilihan Umum," *Jurnal Konstitusi* 21, no. 2 (2024): 316–344, https://doi.org/10.31078/jk2129.

54 Refly Harun, "Rekonstruksi Kewenangan Penyelesaian Perselisihan Hasil Pemilihan Umum," *Jurnal Konstitusi* 13, no. 1 (2016): 5, https://doi.org/10.31078/jk1311.

recorded dissenting opinions, the first occasion on which a presidential election dispute had produced such a division.[55] The dissents addressed, among other matters, the role of the incumbent President in the electoral process and the structural conditions established by the governing legislation.[56]

The significance of that division is contested. One reading treats it as evidence of institutional health, since a court that divides openly is a court that deliberates. The contrary reading, advanced in the most recent study of the field, holds that rulings lacking decisiveness may weaken public perceptions of electoral legitimacy and impede the realisation of electoral justice.[57] The second reading has particular force where the decision is final, because a divided final decision closes the legal question while leaving the constitutional question visibly unresolved, and no further forum exists in which the residue may be addressed.

Analysis of the companion decision reaches a related conclusion, observing that the proceedings raised allegations of violations of a structured, massive, and systematic character which are frequently set aside in the resolution of presidential election disputes before the Court.[58] The study of Decision No. 2/PHPU.PRES-XXII/2024 characterises it as among the most contested of its kind.[59]

c. Decision No. 90/PUU-XXI/2023 and the Ethical Defect

The 2024 disputes cannot be understood apart from the decision that preceded them. In Decision No. 90/PUU-XXI/2023 the Court considered Article 169(q) of Law No. 7 of 2017, which requires a presidential or vice-presidential candidate to be at least forty years of age, and held that the requirement is satisfied alternatively where the candidate has held or currently holds an office filled through a general election, including a regional head election.[60] The decision was delivered on 16 October 2023, shortly before the registration of candidates, and it enabled a candidacy that the unamended provision

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55 Suryanata and Mubarrak, "Analisis Putusan Mahkamah Konstitusi Nomor 1/PHPU.PRES-XXII/2024," 12180.

56 Suryanata and Mubarrak, "Analisis Putusan Mahkamah Konstitusi Nomor 1/PHPU.PRES-XXII/2024," 12180.

57 Widiastuti, "The Dynamics of the Constitutional Court's Authority in Adjudicating Presidential Election Disputes in 2024," 108.

58 Aprilian Sumodiningrat, "Rekonstruksi Penyelesaian Sengketa Pemilu dan Paradigma Hakim dalam Putusan MK Nomor 2/PHPU.PRES-XXII/2024," *Prosiding Seminar Hukum Aktual* (Yogyakarta: Fakultas Hukum Universitas Islam Indonesia, 2024).

59 Muhammad Rozi Saputra, Chrisdianto Eko Purnomo, and Muh. Alfian Fallahiyan, "Analisis Putusan Mahkamah Konstitusi Nomor 2/PHPU.PRES-XXII/2024 tentang Perselisihan Hasil Pemilihan Umum Presiden dan/atau Wakil Presiden," *Jurnal Diskresi* 5, no. 1 (2026): 304.

60 Constitutional Court, Decision No. 90/PUU-XXI/2023.

would have barred.[61]

Three criticisms have been directed at the decision in the scholarly literature. The first is that the Court added a norm to the statute under review rather than assessing the constitutionality of the norm before it, which is said to exceed the function of a negative legislator.[62] The second is that the age requirement is a matter of open legal policy properly belonging to the legislature, a position the Court itself had taken in related cases.[63] The third concerns the quality of the reasoning, which has been analysed and found wanting.[64] A companion case decided at the same period, No. 141/PUU-XXI/2023, was rejected.[65]

The decisive development came afterwards. In November 2023 the Honorary Council of the Constitutional Court found that the Chief Justice had committed a serious ethical violation in his handling of the case.[66] The finding concerned the process of adoption and not the substance of the ruling, and it produced consequences for the justice concerned without disturbing the decision itself, which remained final and binding.[67] By the time the finding was made, the decision had already produced the legal effects for which it had been sought.

That sequence discloses the central structural problem examined in this article. A legal system that treats finality as immunity from assessment is a system in which a demonstrated defect in the process of adoption has no legal consequence for the product of that process. The ethical and the legal tracks run in parallel and never meet. Table 2 sets out the sequence.

Table 2. Sequence of Decisions in the 2024 Presidential Election

Decision	Date	Content	Status
No. 90/PUU-XXI/2023	16 October 2023	Age requirement satisfied alternatively by having held an elected office	Final and binding; unaffected by the subsequent ethical finding

[61] Elva Imeldatur Rohmah, "Dinamika Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023 tentang Persyaratan Usia Calon Presiden dan Wakil Presiden," *Progresif: Jurnal Hukum* 18, no. 1 (2024): 100–131, https://doi.org/10.33019/progresif.v18i1.4636.

[62] Rohman, "Implikasi Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023 terhadap Demokrasi di Indonesia," *Demokrasi: Jurnal Riset Ilmu Hukum, Sosial dan Politik* 2, no. 3 (2025): 100–112.

[63] Hardianto, Krida Sakti, and Meliza, "Masalah Batas Usia Calon Presiden dan Calon Wakil Presiden," 24.

[64] Ahmad Mudatsir and Samsuri, "Melacak Kerancuan Legal Reasoning dalam Putusan MK 90/PUU-XXI/2023: Analisis dengan Metode IRAC," *Peradaban Journal of Law and Society* 2, no. 2 (2023): 169–183, https://doi.org/10.59001/pjls.v2i2.132.

[65] Constitutional Court of the Republic of Indonesia, Decision No. 141/PUU-XXI/2023.

[66] Honorary Council of the Constitutional Court, Decision No. 2/MKMK/L/11/2023.

[67] Gultom et al., "Dampak Putusan Majelis Kehormatan Mahkamah Konstitusi."

Decision	Date	Content	Status
No. 141/PUU-XXI/2023	2023	Related challenge to the age requirement	Rejected
Honorary Council Decision No. 2/MKMK/L/11/2023	November 2023	Serious ethical violation found in the handling of the case	Consequences for the justice; none for the decision
Nos. 1 and 2/PHPU.PRES-XXII/2024	22 April 2024	Presidential election petitions rejected; three dissenting opinions	Final and binding
Inauguration	20 October 2024	Assumption of office	Question ceases to be reversible

Source: processed from the decisions of the Constitutional Court and of its Honorary Council and from the scholarly literature cited in this section.

d. The Fourteen-Day Limit and the Evidentiary Burden

A structural feature of the jurisdiction deserves separate treatment, because it bears directly upon the uniform record described above. Law No. 7 of 2017 requires the Court to examine, try, and decide a presidential election dispute within fourteen days of registration of the petition.[68] The period is among the shortest imposed upon any adjudicator in the Indonesian legal system, and it governs proceedings in which the allegations typically concern conduct dispersed across an archipelago and across several months of campaigning.

The consequences for the conduct of such proceedings are considerable. A petitioner alleging violations of a structured, systematic, and massive character must establish not only that the violations occurred but that they were sufficient in scale to have affected the result, and must do so within a period that permits only a limited number of hearing days.[69] The literature on the resolution of such allegations records that they are frequently set aside, and attributes that outcome in part to the evidential burden and in part to the time available.[70]

The compression also shapes what the Court can usefully examine. An inquiry into the arithmetic of the count is capable of completion within fourteen days; an inquiry into the fairness of a six-month campaign is not. The confinement of the jurisdiction to the verification of tabulation, criticised in the literature as a conceptual choice,[71] is therefore also a practical accommodation to the timetable, and any proposal to widen the inquiry

[68] Law No. 7 of 2017 concerning General Elections, art. 475.
[69] Bahri, "Analisis Putusan MK Nomor 01-PHPU-PRES/XVII/2019," 449.
[70] Sumodiningrat, "Rekonstruksi Penyelesaian Sengketa Pemilu dan Paradigma Hakim."
[71] Widiarto et al., "From Vote Tabulation to Electoral Justice."

must address the timetable as well as the concept.[72] Research on concurrent elections identifies the compression of electoral timetables as a source of strain upon every institution involved.[73]

A comparison with regional head election disputes is instructive. The Court has there displayed a markedly greater willingness to examine process, and studies of its practice in that field describe a pattern of judicial activism absent from presidential disputes.[74] The differences in timetable, in the number of cases, and in the political salience of the outcome all bear upon that contrast, and the jurisprudence following Decision No. 85/PUU-XX/2022 has continued to develop in ways that have no counterpart at the presidential level.[75]

3. After Inauguration: Remaining Avenues and Reform

a. Impeachment as the Sole Remaining Avenue

Once the elected candidate has been inaugurated, the Constitution provides a single mechanism by which the occupancy of the office may be terminated before the expiry of the term. Article 7A permits the removal of the President or Vice-President upon a proposal of the House of Representatives where it is proved that the person concerned has committed a violation of law in the form of treason, corruption, bribery, another serious criminal offence, or a disgraceful act, or no longer satisfies the conditions for holding the office.[76] Article 7B prescribes the procedure, in which the Constitutional Court is required to examine, try, and decide upon the opinion of the House.

Two features of that mechanism bear upon the present analysis. The first concerns the grounds. The enumeration in Article 7A is closed and is directed at conduct, whether criminal or disgraceful, or at the subsequent loss of a qualification. A defect in the process by which the candidacy was established does not obviously fall within any of the heads, and the final head, concerning the conditions for holding office, is naturally read as directed at conditions arising after assumption rather than at the validity of the original

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[72] Firdaus et al., "Ruang Lingkup Kompetensi Mahkamah Konstitusi Memutus Perselisihan Hasil Pemilihan Umum."

[73] Achmad Edi Subiyanto, "Pemilihan Umum Serentak yang Berintegritas sebagai Pembaruan Demokrasi Indonesia," *Jurnal Konstitusi* 17, no. 2 (2020): 357, https://doi.org/10.31078/jk1726.

[74] Amiruddin and Rizki Ramadani, "Judicial Activism in Regional Head Election Dispute: The Practice and Consistency of the Indonesian Constitutional Court," *Substantive Justice International Journal of Law* 6, no. 1 (2023): 56–70, https://doi.org/10.56087/substantivejustice.v6i1.230.

[75] Baharuddin Riqiey, "Kewenangan Mahkamah Konstitusi dalam Memutus Perselisihan Hasil Sengketa Pilkada Pasca Putusan Mahkamah Konstitusi Nomor 85/PUU-XX/2022," *Jurnal APHTN-HAN* 2, no. 1 (2023): 109–124, https://doi.org/10.55292/japhtnhan.v2i1.59.

[76] The 1945 Constitution of the Republic of Indonesia, art. 7B(6) and (7).

candidacy.[77]

The second feature concerns finality itself, and it is here that the Indonesian arrangement is at its most anomalous. Scholarship analysing Article 7B(6) and (7) concludes that the decision of the Constitutional Court in an impeachment proceeding is final and binding upon the House of Representatives but not upon the People's Consultative Assembly, which retains the power to decide otherwise, with the consequence that the decision does not operate *erga omnes* at the stage where it matters.[78] Earlier work reached the same conclusion, characterising the decision as final in a juridical sense only.[79] A system that treats the Court's word as unassailable in electoral disputes and as advisory in impeachment proceedings has not adopted a coherent theory of finality but two inconsistent ones.

A subsidiary question concerns the position of the Vice-President. Article 7A refers to the President and the Vice-President together, and Indonesian practice elects them as a single pair, so that a defect in the candidacy of one is in principle a defect in the candidacy of the pair.[80] Whether the removal of one entails consequences for the other is not addressed in the constitutional text, and the literature on the subject is thin. The question is not academic, since the defect discussed in the preceding section concerned the eligibility of a vice-presidential candidate rather than of a presidential one.[81]

Two readings are available. The first treats the pair as indivisible for the purpose of candidacy and divisible for the purpose of tenure, so that a defect in the candidacy of either would, if it had been established at the proper time, have invalidated the nomination, while removal after inauguration operates upon each office separately. The second treats the pair as indivisible throughout. The first is the better reading, since Article 7A plainly contemplates the removal of one without the other, but it has the consequence that a defect going to the composition of the pair has no mechanism of correction once the pair has been inaugurated.[82] The point reinforces the finding stated above concerning the absence of any forum for post-inauguration questions.[83]

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77 Huda, *Hukum Tata Negara Indonesia*, 274.
78 Efendi, Sterigma, and Mappuna, "Menakar Kekuatan Mengikat Putusan Mahkamah Konstitusi."
79 Sanusi, "Pemakzulan Presiden di Indonesia."
80 The 1945 Constitution of the Republic of Indonesia, art. 7B(6) and (7).
81 Rohmah, "Dinamika Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023."
82 Efendi, Sterigma, and Mappuna, "Menakar Kekuatan Mengikat Putusan Mahkamah Konstitusi."
83 Nasir, Rijal, and Akbar, "Kedudukan Putusan Mahkamah Konstitusi dalam Pembentukan Undang-Undang."

b. The Conception of Electoral Adjudication

The difficulty examined above is compounded by the conception of electoral adjudication that has prevailed in practice. Research reconsidering the Court's authority in electoral disputes argues for a shift from vote tabulation towards electoral justice, that is to say from the verification of arithmetic towards an assessment of whether the process as a whole satisfied the constitutional requirements of a direct, general, free, secret, honest, and fair election.[84] Studies of the Court's treatment of regional head election disputes indicate that the Court has been considerably more willing to examine process in that field,[85] which suggests that the restraint observed in presidential disputes is a matter of institutional posture rather than of jurisdictional limitation.

The literature on electoral justice supports that reading. The concept, as developed in the Indonesian context, encompasses the prevention and resolution of violations across the entire electoral cycle rather than at its conclusion alone,[86] and research on administrative violations after the determination of results has identified the period following the count as a particular gap in the existing arrangements.[87] Comparative work surveying the mechanisms adopted in other constitutional democracies shows considerable variation in how far electoral adjudicators examine process as against result.[88]

Two further strands of scholarship bear upon the question. The first concerns the Court's role in constitutional review of electoral legislation, where it has been active in strengthening the principles of regular, free, and fair elections,[89] and in protecting the rights engaged by electoral administration.[90] The second concerns the design of the electoral calendar itself, the literature on concurrent elections identifying the compression of timetables as a source of strain upon every institution involved, the Court included.[91] Ria Casmi Arrsa's analysis of concurrent elections and democratic

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84 Widiarto et al., "From Vote Tabulation to Electoral Justice."
85 Amiruddin and Ramadani, "Judicial Activism in Regional Head Election Dispute."
86 Khairul Fahmi et al., "Sistem Keadilan Pemilu dalam Penanganan Pelanggaran dan Sengketa Proses Pemilu Serentak 2019 di Sumatera Barat," *Jurnal Konstitusi* 17, no. 1 (2020): 4, https://doi.org/10.31078/jk1711.
87 Supriyadi and Andi Intan Purnamasari, "Redesign of Administrative Violation Handling at Bawaslu Post Determination of Election Results," *Jurnal Konstitusi* 20, no. 1 (2023): 161, https://doi.org/10.31078/jk2019.
88 Bisariyadi et al., "Komparasi Mekanisme Penyelesaian Sengketa Pemilu," 551.
89 Faiz, "Memperkuat Prinsip Pemilu yang Teratur, Bebas, dan Adil."
90 Gaffar, "Peran Putusan Mahkamah Konstitusi dalam Perlindungan Hak Asasi Manusia," 19.
91 Subiyanto, "Pemilihan Umum Serentak yang Berintegritas," 368.

consolidation makes the connected point that institutional design and democratic outcome are not separable questions.[92]

A further question concerns what a remedy would look like if one were available. The literature on Decision No. 90/PUU-XXI/2023 has canvassed several possibilities, none satisfactory. Annulment of the decision would unsettle every legal relation built upon it, including the validity of the candidacy, the election, and every act of the office since assumed.[93] Prospective overruling, by which the construction is abandoned for the future while its past effects are preserved, avoids that consequence but leaves the immediate beneficiary of the construction undisturbed, which is precisely the outcome the critics object to.[94] A declaration that the decision was wrongly reasoned without altering its effect is the mildest option and the one the Court has in substance already adopted by departing from the construction in later cases concerning regional head candidacies.[95]

c. Institutional Alternatives

A substantial body of Indonesian scholarship has proposed institutional alternatives to the present arrangement, and three deserve notice. The first is the establishment of a specialised electoral court. Proposals in this direction have been advanced in relation to regional head elections following Decision No. 97/PUU-XI/2013,[96] which contemplated a specialised judicial body for such disputes,[97] and the constitutionality of such a body alongside the Constitutional Court has been examined at length.[98]

The second is the integration of the entire field of electoral dispute resolution within a single Supreme Electoral Court positioned alongside the Constitutional Court and the Supreme Court, with jurisdiction extending to violations of the code of ethics of electoral administrators, administrative violations, process disputes, electoral offences,

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92 Arrsa, "Pemilu Serentak dan Masa Depan Konsolidasi Demokrasi," 532.
93 Rafiqatul Haniah, "Dampak Putusan Mahkamah Konstitusi No. 90/PUU-XXI/2023 mengenai Batas Usia Cawapres dan Dinamika Demokrasi Konstitusional," *Sustainable Society Advances* 4, no. 1 (2026): 91–104, https://doi.org/10.37680/ssa.9584.
94 Rohman, "Implikasi Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023."
95 Hardianto, Krida Sakti, and Meliza, "Masalah Batas Usia Calon Presiden dan Calon Wakil Presiden," 24.
96 Constitutional Court of the Republic of Indonesia, Decision No. 97/PUU-XI/2013.
97 Supriyadi and Aminuddin Kasim, "Desain Badan Peradilan Khusus Pemilihan Pasca Putusan Mahkamah Konstitusi Nomor 97/PUU-XI/2013," *Jurnal Konstitusi* 17, no. 3 (2020): 604, https://doi.org/10.31078/jk17310.
98 Slamet Suhartono, "Konstitusionalitas Badan Peradilan Khusus dan Mahkamah Konstitusi dalam Penyelesaian Sengketa Hasil Pilkada Langsung," *Jurnal Konstitusi* 12, no. 3 (2015): 505, https://doi.org/10.31078/jk1234.

result disputes, and post-election disputes.[99] The last head is of direct relevance here, since it is precisely the category for which the present arrangement makes no provision.

The third is more modest and consists in clarifying the scope of the existing jurisdiction rather than relocating it. Work examining the Court's competence in result disputes argues that the governing provisions admit of a wider construction than the Court has adopted,[100] and proposals for the reconstruction of the jurisdiction proceed upon the same basis.[101] Research on the problems of specialised electoral courts cautions that the creation of a new institution reproduces rather than resolves the question of what such a body is to examine.[102] Rahayu Prasetianingsih's early characterisation of the jurisdiction as the final legal remedy in electoral dispute resolution remains the clearest statement of what is at stake.[103]

d. Limits of the Analysis

Three limits qualify the findings. The first concerns the character of the inquiry. This article examines the structure of finality and not the merits of any decision; whether Decision No. 90/PUU-XXI/2023 was correctly reasoned is a question of substantive constitutional law on which the literature is divided and on which no position is taken here.[104] The findings would hold whatever view were taken of that question, since they concern the relation between a defect and its consequences rather than the existence of the defect.

The second concerns the evidentiary base for the claim about judicial restraint. The proposition that the Court has confined itself largely to the verification of tabulation in presidential disputes rests upon the published analyses of five sets of proceedings and upon the uniform record of rejection.[105] That is a small corpus, and the inference from outcome to conception of jurisdiction is necessarily indirect: petitions may have failed because they were weak rather than because the inquiry was narrow. The contrast with

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[99] Taufiqurrohman, Jayus, and Efendi, "Integrasi Sistem Peradilan Pemilihan Umum melalui Pembentukan Mahkamah Pemilihan Umum," 578.
[100] Firdaus et al., "Ruang Lingkup Kompetensi Mahkamah Konstitusi Memutus Perselisihan Hasil Pemilihan Umum."
[101] Harun, "Rekonstruksi Kewenangan Penyelesaian Perselisihan Hasil Pemilihan Umum," 16.
[102] Suparto et al., "Establishment of Electoral Court in Indonesia: Problems and Future Challenges," *Journal of Indonesian Legal Studies* 8, no. 2 (2023): 501–544, https://doi.org/10.15294/jils.v8i2.72316.
[103] Rahayu Prasetianingsih, "Perselisihan Hasil Pemilihan Umum di Mahkamah Konstitusi sebagai Upaya Hukum Terakhir dalam Penyelesaian Sengketa Pemilihan Umum," *Jurnal Konstitusi* 1, no. 1 (2009): 44.
[104] Mudatsir and Samsuri, "Melacak Kerancuan Legal Reasoning dalam Putusan MK 90/PUU-XXI/2023."
[105] Chofifi and Kusdarini, "Perkembangan Putusan Mahkamah Konstitusi dalam Menangani Perkara Perselisihan Hasil Pemilihan Umum Presiden," 425.

regional head election disputes strengthens but does not establish the inference.[106]

The third concerns the proposals themselves. Amending Article 7B would require constitutional change, which in Indonesia demands a procedure and a degree of political consensus that no scholarly argument can supply.[107] Clarifying the scope of electoral adjudication is more readily achievable but carries its own risk, since a wider inquiry conducted within an unchanged timetable may produce determinations less reliable than the narrow inquiry it replaces.[108] The conceptual proposal, by contrast, requires nothing but a more careful use of the term, and it is for that reason stated first.[109]

e. Prescriptive Proposals

Three measures follow from the analysis. The first is conceptual and requires no legislative action: finality should be understood as the exhaustion of remedies rather than as immunity from constitutional assessment. The distinction is supported by the text, since neither Article 24C(1) nor Article 10(1) states that a decision is immune from assessment, and it is supported by the Court's own practice of revisiting questions previously determined.[110] Adopting it would permit scholarly and institutional evaluation of decisions without impugning their legal force, which is the position in every comparable jurisdiction.[111]

The second is the clarification of the scope of electoral adjudication, whether by legislative amendment or by a considered statement of the Court's own position. The present confinement of the inquiry largely to the verification of the count leaves allegations concerning the fairness of the process without a forum, and the uniform rejection of presidential election petitions is in part a consequence of that confinement.[112] Widening the inquiry would not entail the annulment of results, since the remedy for a process defect need not be the same as the remedy for a counting error, but it would ensure that the question is at least examined.[113]

The third is the resolution of the asymmetry in impeachment proceedings. Article 7B(6) and (7) should be amended so that a decision of the Constitutional Court finding

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[106] Amiruddin and Ramadani, "Judicial Activism in Regional Head Election Dispute."
[107] Huda, *Hukum Tata Negara Indonesia*, 274.
[108] Supriyadi and Purnamasari, "Redesign of Administrative Violation Handling at Bawaslu," 172.
[109] Putra, "Sifat Final dan Mengikat Putusan Mahkamah Konstitusi," 305.
[110] Eddyono, "The Constitutional Court and Consolidation of Democracy in Indonesia," 18.
[111] Bisariyadi et al., "Komparasi Mekanisme Penyelesaian Sengketa Pemilu," 551.
[112] Widiarto et al., "From Vote Tabulation to Electoral Justice."
[113] Firdaus et al., "Ruang Lingkup Kompetensi Mahkamah Konstitusi Memutus Perselisihan Hasil Pemilihan Umum."

the grounds established binds the People's Consultative Assembly as it binds the House of Representatives, which would restore to the Court's decisions in that field the character they possess elsewhere.[114] Without that amendment the Indonesian system continues to operate two incompatible conceptions of finality, treating the Court as unassailable where its decision confirms an electoral outcome and as advisory where its decision would disturb one.[115]

Taken together, the three measures address the configuration identified in the introduction to this article. None of them proposes that a decision of the Constitutional Court be made appealable, which would destroy the institution; and none proposes that an inaugurated President be removable upon a ground not stated in the Constitution, which would destroy the stability that fixed terms are designed to secure. What they propose is that the system cease to derive from the finality of a decision a conclusion that finality does not support, and that the questions which finality legitimately closes be distinguished from those it does not.[116]

Table 3. Prescriptive Framework

Issue	Present position	Difficulty	Prescription
Meaning of finality	Construed as immunity from assessment	Not entailed by the constitutional text	Finality understood as exhaustion of remedies
Scope of electoral adjudication	Confined largely to verification of the count	Process allegations left without a forum	Scope clarified by amendment or by the Court's own statement
Remedy for process defect	Identical to remedy for counting error	Annulment disproportionate; hence restraint	Graduated remedies distinguished from annulment
Finality in impeachment	Binds the House but not the Assembly	Two incompatible conceptions of finality	Article 7B(6) and (7) amended
Institutional design	Jurisdiction dispersed among several bodies	Post-election disputes without a forum	Specialised electoral court or clarified jurisdiction

Source: processed from the analysis undertaken in this study.

C. CONCLUSIONS

The finality attaching to decisions of the Constitutional Court rests upon Article 24C(1) of the 1945 Constitution and upon Article 10(1) of the Constitutional Court Law, whose Elucidation construes finality as including binding force, and the doctrine of erga omnes developed from that provision extends the binding effect to everyone rather than

[114] Efendi, Sterigma, and Mappuna, "Menakar Kekuatan Mengikat Putusan Mahkamah Konstitusi."
[115] Sanusi, "Pemakzulan Presiden di Indonesia."
[116] Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, 188.

to the parties alone; of the five dimensions commonly attributed to finality, however, four rest upon an identifiable textual basis while the fifth, namely immunity from any form of constitutional assessment, is an inference that the text does not support. In presidential election disputes that finality has operated against a uniform record in which every petition brought in 2004, 2009, 2014, 2019, and 2024 was rejected and none has ever been granted, the 2024 decisions being the first to divide the bench, three of eight justices dissenting, while Decision No. 90/PUU-XXI/2023, which enabled the candidacy at issue, retained full legal force notwithstanding the finding of the Honorary Council that its adoption involved a serious ethical violation, so that the ethical and legal tracks never met. After inauguration the Constitution leaves only impeachment under Articles 7A and 7B, whose grounds are closed and directed at conduct rather than at defects in candidacy, and whose own finality is asymmetrical, binding the House of Representatives but not the People's Consultative Assembly, with the result that the system operates two incompatible conceptions of finality at once. It is accordingly recommended that finality be understood as the exhaustion of remedies rather than as immunity from assessment, that the scope of electoral adjudication be clarified so that allegations concerning the fairness of the process are examined and met with graduated remedies distinct from annulment, and that Article 7B(6) and (7) be amended so that the Court's decision in impeachment proceedings binds the Assembly as it binds the House.

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