

# THE URGENCY OF ESTABLISHING A SPECIAL COURT FOR ELECTION DISPUTES REGIONAL HEAD ELECTION DISPUTES IN THE INDONESIAN JUDICIAL SYSTEM

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### THE URGENCY OF ESTABLISHING A SPECIAL COURT FOR ELECTION DISPUTES REGIONAL HEAD ELECTION DISPUTES IN THE INDONESIAN JUDICIAL SYSTEM

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#### **Abstract :**

*The purpose of this research is first, how is the urgency of special courts in resolving disputes over regional head elections in the judicial system in Indonesia, second, how is the existence and position of special courts in the judicial system in Indonesia. This research uses normative legal research methods, namely research on the norms that apply in resolving disputes over election results, both those contained in local government laws and in other laws and regulations relevant to the object of research. In addition, it also uses comparative, historical and case methods. Special courts in the settlement of election disputes are carried out by forming judicial institutions as executors of judicial power, so that they are included in one of the 4 (four) judicial circles as stipulated in Article 24 of the 1945 Constitution of the Republic of Indonesia and Law Number 48 of 2009 concerning Judicial Power, or by forming special courts for the settlement of election disputes appointed and formed based on laws whose existence is outside the institution of judicial power, meaning that it is separate from the 4 (four) existing judicial circles, even if juris normative is possible.*

**Keywords :** *Establishment Of The Judiciary; Election Dispute Head Of A Regional Council; Justice System In Indonesia;*

#### **I. Introduction**

Principle in a state of law that every There is dispute in form whatever and by whomever the state is obliged present For follow up and complete the problem reason the occurrence dispute . Judicial basis settlement dispute in a state of law set up in Basic Law or in law , in the form of giving authority in the institution justice or a body that is not institution court appointed by law For finish dispute . For That settlement dispute No just become monopoly by institutions justice , but rather can also be in the form of institution /body or officials appointed by law For do justice.

Existence institution settlement dispute become very important and urgent, what again trend shows every implementation regional elections amount dispute the longer the more increase . such as series measure , while designated agency No certainty and existence Still questioned so that happen each other cross opinion . Such a thing Already Certain will bring impact to the more long queue For submission settlement dispute regional elections . Sedimentation problem This the longer the more pile up like iceberg, therefore That quick must get attention Serious as well as the solution, if No can cause consequence the occurrence uncertainty law . Thus the amount

dispute results election Good Regional Head That at level Regency /City or Province. While Court Constitution with The verdict Number 97/PUU XI/2013, stipulates himself itself (MK) does not authorized to finish dispute results Election general Regional Head regional election ).

Based on the 1945 Republic of Indonesia Constitution, Article 24 C paragraph (1) reads, "The Court Constitution authorized to judge at the level of first and last whose decision is final for test Constitution to The Constitution, decides dispute authority state institutions whose authority granted by law basic, break dissolution party politics, and decide dispute results election general". Meanwhile, the provisions of Article 22 E paragraph (2) read, "The election of general held For choose Members of the People's Representative Council, Regional Representative Council, President and Vice President and Regional People's Representative Council" Observing from two articles in the Basic Law show that there is affirmation about principle election general For choose these state institutions.

Furthermore arrangement about election head area regulated in CHAPTER VI Article 18 paragraph (4) of the 1945 Republic of Indonesia Constitution which reads, "Governor, regent the mayors of each as head government area province, district and city chosen in a way democratic ". With existence different settings in the 1945 Republic of Indonesia Constitution concerning meaning election general and election head area in a way democratic . Use term the can cause cross opinions and differences interpretation so that also has an impact on institution that handles settlement the dispute.

The other side of Constitution Number 12 of 2008 Concerning Change second on Constitution Number 34 of 2004 Concerning Regional Government reads, "Handling dispute results calculation voice election head area and deputy head area by the Supreme Court was transferred to Court Constitution no later than 18 (eight) twelve months ) since Constitution This enacted". If

you look closely in a way normative from provision this show inaccuracy Constitution The Regional Government regulates competence A institution trial, originally his authority There is in hand The Supreme Court then transferred to the Court Constitution For finish dispute results in election head area. Settings This No should set up in the Constitution Regional Government, but become must returned to law the beginning competence A the court that regulates it, namely Invite Power Justice or align with to amend existence Constitution Court Constitution.

More continued in Article 157 paragraphs (1), (2) and (3) of the Law Number 10 of 2016 Concerning Regional Government is change on Regulation Government Number 1 of 2014 Concerning Election Governors, Regents and Mayors is :

1. Case dispute results election examined and tried by a judicial body special.
2. The judicial body special as referred to in paragraph (1) is formed before implementation election simultaneously national.
3. Case dispute determination acquisition voice stage end results election examined and tried by the Court Constitution until the formation of a judicial body special .

Confusion of settings settlement disputes that are not in accordance with mandate of the 1945 Republic of Indonesia Constitution and the laws that govern it power judiciary , in fact will cause cross opinions and even make material debate that is not ended . Even if forced so in a way legal existence the institution questioned especially the decision, so that will give impact legal negative in enforcement the law namely give birth to the verdict is not own certainty law. For avoid matter mentioned , it is necessary dug up draft theoretical principle institution the judiciary so as not to crash signs that have been set up in Article 24 of the 1945 Constitution and Law Invite Number 48 of 2009 Concerning Power Justice.

Election simultaneously planned for 2024 with through election general For choose The President and Vice President, the People's Representative Council (DPR), the Regional Representative Council (DPD) and the Regional People's Representative Council (DPRD) of the Province, Regency and City as well as election head of province, Regency and City. Implementation party a very big democracy good seen from amount participant.

the institution that will formed from results election general and regional elections . Election results general will give birth to a the institution called The President and Vice President, DPR, DPD, Provincial DPRD and Regency /City DPRD, while election regional elections will give birth to a institution The Head of the Province is called The Governor and Head of the District are referred to The Regent and Head of the City Region are referred to Mayor . There is a party great democracy For to form institutional good at level center or in the regions , based on with various dimensions interest multi- complex politics , so that in implementation party democracy this is what is not close possibility the occurrence dispute results elections and regional elections, because each party Can just feel No satisfied on decision results calculation KPU's voice. This is where importance anticipation and preparation formation institutions that are special finish dispute regional elections, is it That settlement in court Constitution, institutions lower court Supreme Court or formed institution justice specifically those whose existence is outside from four environment justice.

On November 27th 2024 with held election head area simultaneously which will followed by 416 districts and 98 cities and 37 provinces. Election head area simultaneously bring consequences logical the occurrence dispute results in regional elections for those who feel no satisfied on results calculation

sound. Based on past experience from time to time, the implementation election head area show the occurrence of an upward trend in case significant dispute. Based on data in Mahkamah the constitution of the parties submitting the petition dispute results election head regions in 2015 from 269 regions that implemented regional elections simultaneously, which submitted dispute results of 152 cases or around (57%). In 2017, a total of 101 regions implemented regional elections simultaneously attended by 7 provinces, 76 districts and 18 cities, 60 participants were recorded regional elections or (59%) submitted application settlement dispute at the Constitutional Court.<sup>1</sup> Furthermore, in 2018 the implementation regional elections simultaneously attended by 171 regions among others : 17 provinces, 115 districts and 39 cities. 65 or (38%) applicants submit settlement dispute results at the Constitutional Court. In 2020 the election regional elections simultaneously followed by 270 regions consisting of 9 provinces, 224 districts and 37 cities that submitted settlement the results at the Constitutional Court were 132 cases or (48%). Observing from the data above show that in organization election head area almost approaching 50% in calculation results election head area submit lawsuit dispute to Court Constitution .

The occurrence change system election head the original area done in a way No simultaneously, then replaced in 2024 to simultaneously. Such a thing Already Certain will give very big impact to continuity and sustainability to the existence of the election process head area That alone . Because it is not There is guarantee that parties as participant election head area No submit lawsuit on KPU decision. Provisions Constitution regional elections in a way clear give opportunities for parties who do not satisfied For submit lawsuit to Court Constitution, one side institution settlement

<sup>1</sup> Adeline Syahda dan Adam Mulya Bunga Mayang, Penanganan Perselisihan Hasil Pilkada Tahun 2017 Oleh Mahkamah Konstitusi: Varian Penerapan Ambang Batas Selisih Suara Perselisihan Hasil

Pilkada 2017, hlm. 60, dalam Jurnal Pemilu dan Demokrasi (Perludem), Edisi 10, Evaluasi Pilkada 2017; Pilkada Transisi Gelombang Kedua Menuju Pilkada Serentak Nasional, Jakarta, 2017.

dispute regional elections only One namely Court Constitution, while on the other hand The number of MK judges is also limited and time settlement dispute very much short and even it's time restricted only 45 days since accepted application, while amount case dispute regional elections predicted more from hundreds that must resolved . Problematic this is what is needed attention and seriousness from all party For give alternative solution settlement dispute. Which institution is given authority For finish dispute regional elections. The aim is to resolve dispute regional elections No dragged on, so that give birth to a final decision law and justice for all party.

Pact show that in stage settlement dispute results regional elections before arrive at the court Constitution, the existence of segmentation Handling disputed by several other institutions that do in a way legal given competence For handle dispute said. It is regulated a number of the institution given authority finish dispute regional elections. So that happen disharmony decision and in procedural will can bring consequence legal to settlement dispute regional elections with duration long time and not certainty law. For example, the Mataram PTUN decision Number 31/G/2010/PTUN MRT, the essence of which is about cancellation on KPU's decision on determination candidate head area, but on the contrary The MK panel of judges has a different opinion the verdict Number 186/PHPU-VIII/2010 decides that the election process Already in accordance with provisions, so that determination candidate head area the No cancelled .

Likewise in the case of election regional elections in Bandar Lampung are getting more and more add series long duration stages and completion process dispute regional elections handled by other institutions . Elections regional elections in Bandar Lampung in 2020 where with participant number sequence 3 namely the

ED and DA couple, who were initially Already determined by the KPU of Bandar Lampung City as winner regional elections 2020. However in his journey The Bandar Lampung City Election Supervisory Committee has cancelled KPU determination with argument proven in a way valid and convincing stated guilty Because do action in a way Structure , Systematic and Massive (TSM), More The Supreme Court also continued to do so action cancellation on the determination issued by the KPU is stated disqualification to partner candidate.<sup>2</sup> Cases the become proof that Handling settlement dispute results calculation regional elections Still need attention Serious Good from side regulation its legislation and also institutions /agencies that are special given authority handle settlement dispute start beginning until end.

Based on description the so writer interested For do study with title : **“URGENCY OF FORMATION OF SPECIAL COURTS FOR REGIONAL HEAD ELECTION DISPUTES IN THE JUDICIAL SYSTEM IN INDONESIA”.**

## II. Legal Materials and Methods

Study This use method study law normative that is study about the applicable norms in settlement dispute results regional elections, both those stated in Constitution government area and also in regulation other relevant legislation with object research . Besides it also uses method comparison , historical and cases. Based on the data , it shows that Indonesia is a large and vast archipelagic country. marked with the magnitude amount population, number provinces, districts and cities. The number of amount 37 provinces, 416 districts, and 98 cities. This is so naturally will give impact when done election regional elections in a way simultaneously, because from participant election regional elections Already predicted No A little those who feel

<sup>2</sup> <https://regional.kompas.com/read/2021/01/27/1946049/ki-sruh->

<pilkada-bandar-lampung-selesai-ma-anulir-keputusan-kpu-yang-batalkan?page=all> (15/3/2021)

No satisfied on calculation results the sound obtained, they own opportunity For submit lawsuit to Court Constitution. While the given authority For to finish dispute only One institution with amount limited judicial personnel and time very tight solution as well as short . So that very much No rational when aimed at only on one institution, because Court The constitution too No only handle dispute regional elections but also given authority For finish other disputes such as judicial review to the law in dispute Still Lots queue wait handled.

### III. Results and Discussion

In general constitutional election head area regulated in Article 18 paragraph (4) of the 1945 Constitution, in essence to secure that election governors, regents and mayors chosen as head government area in a way democratic. The provisions of the 1945 Constitution are outlined more carry on in Constitution Number 32 of 2004 Concerning Regional Government. In the law law said, the court Great is what is given authority For settlement results regional elections, as regulated in Article 106 which reads, (1) " objections "to determination results election head area only can filed by the couple candidate to Supreme Court ..." paragraph (3) Submission objections ..... submitted to the Court tall For election head area and deputy head area provinces, and district courts for election head area and deputy head area district / city".

Provision the when under scrutiny show that settlement dispute regional elections become competence justice from start justice level first, appeal to to Supreme Court. However since birth Constitution Number 22 of 2007 Concerning Implementation General Election ( Election Law ), where There is change the original terminology election head region ( regional elections ) becomes election general head region ( regional elections ), then the settings emphasized in Article 1 number 4 of the Election Law .

Question appear whether settlement dispute regional elections Still become realm

authority Supreme Court or Supreme Court Constitution with the birth of the Election Law , while every There is election general head area No few parties who do not satisfied on sound obtained submit lawsuit For request resolution . Problem become quaint while institutions designated by law Still there is cross opinion . Added Again with Decision Court Constitution Number 072-73/PUU-II/2004 which in broad outline stated, "..... election head area direct That No election in the formal sense called in Article 22 E of the 1945 Constitution of the Republic of Indonesia so that dispute results determined as addition authority The Supreme Court as set up in Article 24 A paragraph (1) of the 1945 Constitution.....".

When connected with provision Article 18 paragraph 4 of the 1945 Constitution states "Governors, Regents and Mayors chosen in a way democratic". The provisions Article 22 of the 1945 Constitution uses the term "election" general", while the Article explained more continue with provision Constitution Number 12 of 2003 concerning Election Members of the DPR, DPD and DPRD. Based on from provision the can it is said that dispute results election Still become realm authority Court Constitution. This is what then give birth to difference interpretation meaning competent institution for handle dispute. One side dispute election believed become authority Court Constitution, the other side of the dispute election regional elections is not become authority Court the Constitution, but rather be one of authority The Supreme Court as can as seen in Article 24 A paragraph (1) of the 1945 Constitution which states : "The Supreme Court has the authority to judge at the level of cassation ..... and have authority others provided by law."

See development history flash come back the institution given authority by law For finish dispute regional elections back to authority That given to Supreme Court , however then in 2008 when happen dispute regional elections in East Java have been No Again handled by the Supreme Court but not



by the Court Constitution, precisely on September 15 2008, the task the first time settlement dispute the switch to Court Constitution with Constitutional Court Decision No. 41/PHPU-D-VI/2008, page This show that periodization Handling dispute results The regional elections by the Supreme Court have begun from 2005 and ended until 2008 .

Development more carry on with he did right to judicial review against Article 236 C of the Law Number 12 of 2008 concerning Change Second as Constitution Number 34 of 2004 concerning Regional Government and Article 29 paragraph (1) letter e of the Law Invite Number 48 of 2009 concerning Power Justice , which is assessed contradictory with Article 1 paragraph (3), Article 22 E paragraph (2), Article 24 C paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Material test This give birth to Constitutional Court Decision Number 97/PUU-XI/2013 which in essence decide that the Constitutional Court does not Again authorized and not Again have strength law in to finish dispute regional elections .

This is what causes the occurrence cross opinion from the contextual the rules listed in the 1945 Republic of Indonesia Constitution in Article 22 E paragraph (2) which reads, "election general held for choose Members of the People's Representative Council, Regional Representative Council, President and Vice President and Regional People's Representative Council ". On the other hand, Article 18 paragraph (4) of the 1945 Constitution states, " The Governor, Regent and Mayor each act as head government area province, district and city chosen in a way democratic". The use of the term "election" general" and "selected" in a way democratic ". The difference is what then causes debate whether election Governors, Regents, and Mayors when happen dispute

become authority Court Constitution or become authority Supreme Court. Based on Article 24C paragraph (4) of the 1945 Constitution of the Republic of Indonesia, the authority Court Constitution is: "The Court Constitution authorized to judge at the level of the first and last which is final ..... is given authority by the Constitution to decide dissolution party politics, and decide dispute results election general ".

On the other hand, based on Constitution Number 12 of 2008 Concerning Change Second on Constitution Number 34 of 2004 concerning Regional Government in Article 236 C of the Law Invite Constitution Constitution the mandate which reads," Handling dispute results calculation voice election head area and deputy head area by the Supreme Court was transferred to Court The constitution is no longer than 18 ( eight) years . twelve ) months since Constitution This enacted. More carry on based on Article 157 paragraph (1, 2 and 3) of the Law Number 6 of 2020 concerning election Governor , Regent and Mayor , settlement results regional elections mention :

- 1) Matter dispute results election examined and tried by a judicial body special .
- 2) Judicial body special as referred to in paragraph (1) is formed before implementation election simultaneously national .
- 3) Matter dispute determination acquisition voice stage end results election examined and tried by the Court Constitution until the formation of a judicial body special .

Based on history and past experiences designated agency For finish results regional elections since 2005 to in 2020, in general periodization There are 4 institutions provided authority to judge dispute results :<sup>3</sup>

- a. In MA since 2005 to 2008 .
- b. At the Constitutional Court from 2008 to 2014.

<sup>3</sup> Heru Widodo, Menakar Peluang Badan Peradilan Khusus Pilkada, disampaikan dalam acara Kuliah Umum di youtube Salam Radio Channel pada 5 Oktober 2021 (15/10/2021).

- c. In the High Court and can submitted cassation to MA 2014 -2015.
- d. Transition period at MK 2015 until the formation of the Judicial Body special.

Competence Court Constitution and also Supreme Court of two institutions executor power Equal justice own authority and duties in Handling very busy matters. So it's very reasonable MA condition is already overloaded with cases handled, aside from That dimensions political must become considered dominant in positioning MA as justice political Because He is justice institutions. Likewise, the Constitutional Court, although not yet MA overload, however amount of incoming matters to the Constitutional Court is enough to drain energy.<sup>4</sup> Such a thing if dispute regional elections charged to the MA and MK will give burden risk for upright justice and emerge absence certainty law. Therefore with consideration of philosophical and juridical, then it's time to form a justice special handling dispute results in regional elections.

Observing which court in realm power the most appropriate justice to finish dispute regional elections There is a number of view: Nurul Ula Ulya, Case dispute results is case concrete so it is most appropriate is within the scope of MA or justice special other as "Court of justice"<sup>5</sup> because in the verdict no need philosophical considerations.<sup>6</sup> Likewise, Saldi Isra<sup>7</sup> has the view that cases about regional elections and elections in essence is case concrete, then more on the spot handling by the "Court of Justice"

which according to system The judiciary in Indonesia is the Supreme Court and not the "Court of Law" like the Constitutional Court. According to Bagir Manan,<sup>8</sup> the transfer of position and authority settlement dispute regional elections from MA to MK must Be strong and well thought out reasons thoroughly because seen from principle of justice no may be withdrawn extend. Likewise in tune with Mahfud MD<sup>9</sup> opinion unclear arrangement diversion Handling settlement dispute regional elections from MA to MK, it should be There is chapter for example Article 106 states No applicable Again or replaced with the new one, but in Law No. 32 of 2004 no set.

In general essence principle regulated regional elections in the provision Constitution covers among others: principles direct, general, free and confidential, as well as honest and fairness. To realize principle regional elections the minimum can be seen from five indicators : (1) regulation puts citizens in general the same in use right select. (2) Regulations that meet principle certainty law, consistent and implementable. (3) Regulation no only ensure the process walk honest and fair but also to become engineering constitutional for realize elections with integrity. (4) Regulations election provide mechanism Handling violations and disputes For fight for right select. (5) Selection implemented in a way professional and without violence by independent organizers.<sup>10</sup>

One of the indicator points number four become very important for give protection and guarantee law right choose

<sup>4</sup> Hani Andhani , Sengketa Pilkada: Penyelesaian dari Mahkamah Agung ke Mahkamah Konstitusi, Rajawali Press, Jakarta, 2019, hlm. 36.

<sup>5</sup> Nurul Ula Ulya, Evaluasi Yuridis Sistem Penyelesaian Sengketa Pemilihan Umum dan ius Constituendum Peradilan Khusus Pemilihan Umum, Jurnal HukumJustitia Et Pax.Vol.35 Nomor 2, Desember 2019, hlm. 159.

<sup>6</sup> Jimly Ashiddiqie, Kedudukan Mahkamah Konstitusi dalam Struktur Ketatanegaraan Indonesia, diakses dari <http://mkri.id/index.php?page=web.berita&id=11779>, diakses pada 8 Mei 2022.

<sup>7</sup> Saldi Isra, Titik Singgung Kewenangan Mahkamah Agung dengan Mahkamah Konstitusi, Jurnal Hukum dan Peradilan , Vol.4 No.1, Maret 2015. Hlm.19.

<sup>8</sup> Bagir Manan, Kritik Pengadilan Sengketa pajak, Koran tempo, 9 April 2008.

<sup>9</sup> Bagir Manan, Kritik Pengadilan Sengketa pajak, Koran tempo, 9 April 2008.

<sup>10</sup> Sarah Birch, 2011, Electoral Malpractice, Oxford University Press, UK, hlm 51, sebagaimana dikutip oleh Ratna Dewi Petalolo dan Khairul Fahmi dalam Kajian Evaluatif Penanganan Pelanggaran Pilkada 2020, Jakarta, Bawaslu RI, hlm.2.



public in determine his choice, so that the existence of a state of law obliged For prepare means institution settlement dispute (judicial special) which has authority For finish dispute results regional the elections.

Regarding with system law elections / elections (electoral justice system) in Indonesia in matter happen Complaint to settlement issues that arise in implementation election good in form violations, disputes, or dispute results in a way essence has set up in provision law, at least there is six institution namely; Bawaslu, Supreme Court, District Court, Honorary Council Organizer Elections (DKPP), High State Administrative Court (PTTUN), and the Supreme Court Constitution. This is what causes absence efficient and effective law regional elections in realize objective law; namely justice, benefit and certainty law. Segmentation designated institutions For handle dispute regional elections, so that cause consequence the occurrence uncertainty law, example in PTUN decision No. 31/G/2010/PTUN/MRT which cancels KPU's decision on determination candidate Regional Head, however on the contrary in decision Court Constitution No. 186/PHPU.D VIII/2010 assumes that the election process already in accordance with provisions, so that determination candidate head area the no cancelled.

It was formed justice to give guarantee and protection law for those seeking justice, therefore settlement effective, efficient dispute resolution according to Bagir Manan<sup>11</sup> the system justice that must done in a way integrated. Integration that covering connection between enforcer law and also in the trial process, to ensure satisfactory decision for seeker justice. dispute elections and elections basically kada due to the lack of same view example about amount voters and numbers calculation, so that cause problem. The results of IDEA International's research, electoral disputes are "any complaint, challenge, claim or contest

relating to any stage of the electoral process.<sup>12</sup>

Principle in a state of law every There is dispute then the state is obliged present For to finish dispute said, in system Indonesian law settlement dispute carried out by a judicial body as regulated in Article 24 of the 1945 Republic of Indonesia Constitution, in essence power judiciary carried out by the Supreme Court and other bodies the courts under it in environment justice general, environment religious courts, environment justice military and environment state administrative courts and Court Constitution. Article 24 of the 1945 Constitution of the Republic of Indonesia then implemented and described more carry on with the formation of Law Number 48 of 2009 concerning Power Judiciary. Provisions in Article 27 of the Law on Power Justice in essence, " the court special only can formed in one of the environments the courts under Supreme Court". Provisions show that while Justice Special dispute regional elections as executor power judiciary in a way normative his position placed below Supreme Court. Questions appear environment which court ? The closest environment that has competence to judge action/deed official state administration in the form of decision is State Administrative Court. Issues appear object dispute regional elections more Lots nuanced politics, resolution the dispute need fast time ( there is limitation time ), for example settlement dispute results regional elections province, district/city because when the solution drag on will happen emptiness official head area , this It Means close existence effort law from the party that does not satisfied for appeal, cassation and review Back to Supreme Court. The other side of handling dispute regional elections nature incidental It means no will happen submission of the parties to court at every day or every month, but the occurrence dispute at the time existence implementation regional elections (five year once), moreover

<sup>11</sup> Bagir Manan, Sistem Peradilan Berwibawa (suatu pencarian), FH UII Press Yogyakarta, 2005, hlm.93.

<sup>12</sup> IDEA International, 2010, Electoral justice: The International IDEA Handbook, Stocholm Bulls Graphics, hlm. 199.

regional elections Now This done in a way simultaneously .

Other alternatives to justice special in the form of a body consisting of from official official, official That No always the judge who has power For to judge ( legal) macht ) and appointed by law For conducting justice.<sup>13</sup> With thus justice special settlement dispute regional elections it is possible his position is outside from 4 environments justice as executor power judiciary, example Completion dispute labor Formerly before become competence justice Pancasila industrial relations, then settlement dispute labor become competence institution Committee Completion Dispute Central Labor Union (P4P) or Committee Completion Dispute Regional Hunting (P4D). As material comparison Justice Special Uruguay's election has an external judicial body power Justice called the "Electoral Corte" whose existence as institution height of the country parallel with president, parliament and power judiciary conventional Electoral Corte is considered as, "A Forth Branch of Governance".<sup>14</sup>

Draft election institution justice special handling dispute results regional elections whether That entered as part from power judiciary or his position is outside from power justice, then very much determined by the conditions of the country concerned. According to Jimly Asshiddiqie, that system settlement disputes regional elections No There is term best because each system there is advantages and disadvantages, for That must customized with conditions, history, culture and traditions in the country.<sup>15</sup> Some of the system adopted by countries in solution dispute elections among others use settlement past institution justice, settlement by institutions organizer elections, and

institutions special settlement dispute election, record as many as 132 countries 59% gave authority settlement dispute Elections in the judiciary , as many as 84 countries or 37% leave it to the organizers elections, including Indonesia, and as many as 27 countries or 12% leave it to institutions special, and as many as 25 countries or 11% have mechanism special .

#### IV. Conclusion and Suggestion

Justice special in settlement dispute regional elections done with to form copper justice as executor power judiciary, so that enter in one of the from 4 ( four ) environments justice as safe has set up in Article 24 of the 1945 Constitution of the Republic of Indonesia and the Law Number 48 of 2009 concerning Power Justice, or with to form justice special settlement dispute appointed and formed regional elections based on the law that exists institution settlement dispute regional elections that, its existence outside from institution power judiciary It means separated from 4 ( four ) environments the trial that has been there is, this too in a way jurist normative possible.<sup>16</sup>

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<sup>13</sup> Rochmat Soemitro, Masalah Peradilan Administrasi dalam Hukum Pajak di Indonesia, Eresko Jakarta, 1976, hlm.9.

<sup>14</sup> Sara Staino, Uruguay: The Electoral Court A Forth Branch of Governance dalam Alan Wall, et.al, Electoral Management Design: The International IDEA Handbook (IDEA, 2006), hlm. 2019.

<sup>15</sup> <http://youtube.be/cKB8IFV2LYE>, dalam wawancara dengan Jimly Asshiddiqie di kanal youtube Mahkamah Konstitusi, tentang MK(masih) adil hasil sengketa pilkada?, "Badan Peradilan Khusus Pilkada II", diakses 20 Mei tahun 2022.

<sup>16</sup> Ace Project, Legal Framework Encyclopedia, 2012, 3 edition. <http://aceproject..Org/ace-en/topic/If/fb12/fb12a/fb12a05>.

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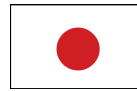
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# THE URGENCY OF ESTABLISHING A SPECIAL COURT FOR ELECTION DISPUTES REGIONAL HEAD ELECTION DISPUTES IN THE INDONESIAN JUDICIAL SYSTEM

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