

Amicus Curiae in The Judicial System in Indonesia A Case Study of The Dispute of Domain Decision of The Constitutional Court Number 1/PHPU.PRES-XXII/2024: The Results of The General Election of The President and Vice President in 2024

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Abstract. The judicial process plays a crucial role in resolving political disputes, especially concerning general election results. Disputes over the 2024 presidential election in Indonesia highlight the importance of Amicus Curiae, independent parties providing expertise in the judicial process. This article examines the urgency, legal basis, and practical implications of Amicus Curiae's involvement in election disputes, offering suggestions to enhance their role in upholding law and democracy in Indonesia. Strengthening Amicus Curiae's role aims to make the judicial process more transparent, objective, and accountable, reinforcing a just democracy. This normative research employed legal and conceptual methodologies, using secondary data analyzed descriptively and qualitatively. Conclusions were drawn deductively, focusing on Amicus Curiae's impact in the 2024 election dispute (Constitutional Court Decision Number 1/PHPU.PRES-XXII/2024). The research found that Amicus Curiae's presence is vital for a fair, objective, and transparent judicial process. By offering independent views and expertise, Amicus Curiae enhances discussions at the Constitutional Court, ensuring well-considered decisions. National and constitutional regulations support Amicus Curiae participation, emphasizing transparency, openness, and equal access to justice.

Keywords: Amicus Curiae, Judicial System in Indonesia, Dispute Case on the Results of the 2024 Presidential and Vice-Presidential Election, Constitutional Court Decision Number 1/PHPU.PRES-XXII/2024

1 Introduction

Holding general elections is a fundamental democratic milestone for a country. Therefore, every dispute related to general election results requires careful and objective handling. In this context, the presence of the Amicus Curiae can provide an independent and authoritative perspective on legal debates that may arise at the Constitutional Court. In this case study, the Amicus Curiae may consist of constitutional experts, election law experts, or civil society organizations who have extensive experience and knowledge. relevant in general elections and related legal processes. Their participation can help the Constitutional Court to understand the constitutional implications of election regulations and practices, as well as their impact on the constitutional rights of citizens[1].

Apart from that, the presence of Amicus Curiae can increase the transparency and accountability of the legal process. By providing balanced and comprehensive arguments, they can help ensure that every decision taken by The Constitutional Court is founded on mature considerations and solid legal principles. In this way, on account of a disagreement regarding the consequences of the 2024 official and bad habit official races in the domain of Sacred Court choice Number 1/PHPU.PRES-XXII/2024, the participation of Amicus Curiae not only reflects a commitment to the supremacy of law but is also a progressive step in strengthening democratic mechanisms and protecting constitutional rights in Indonesia[2]

Amicus Curiae, which means "friend of the court" in Latin, refers to the practice in which individuals or groups not directly involved in a case provide opinions or advice to the court to assist in decision-making. In Indonesia, this concept has been adopted in the judicial system, especially in the context of constitutionality testing such as disputes over general election results (PHPU) which are submitted to the Sacred Court (MK). On account of disagreements about the consequences of the 2024 official and bad habit official general elections (PHPU.PRES-XXII/2024) in Indonesia, the role of Amicus Curiae is becoming increasingly important in strengthening the integrity and credibility of the legal process[3]. Taking into account the complexity of this case and its broad impact on political stability and government legitimacy, the Constitutional Court opened the door to the participation of parties who have special expertise or knowledge regarding the legal issues in question.

With regards to the argument about the consequences of the 2024 official and bad habit official decisions in Indonesia, the legitimate help for Amicus Curiae cooperation can be found in Article 51 of Regulation Number 8 of 2011 concerning the Second Revision to Regulation Number 24 of 2003 concerning the Sacred Court. This article regulates "Trials and Evidence" at the Constitutional Court, where paragraph (2) of Article 51 states that "Constitutional trials through open trials by applying the principles of justice, truth, openness, and thoroughness." In the context of open trials and the principles of truth, openness, and thoroughness, Amicus Curiae participation becomes relevant. It is by the spirit of democracy and the supremacy of law, where the existence of Amicus Curiae can provide wider access to various legal points of view in cases being considered by the Constitutional Court[4].

With a strong legal basis such as Article 51, the Constitutional Court can legally allow and even encourage the participation of Amicus Curiae in the constitutional review process, including in cases of disputes over general election results which are the focus of public attention such as this case. Thus, the legal steps taken to strengthen the constitutional review process in Indonesia can be considered an integral part of the evolution of a transparent, open, and accountable judicial system. The participation of Amicus Curiae in cases of dispute over the results of the 2024 presidential and vice-presidential elections is also supported by relevant international legal principles of human rights and democracy, in addition to Article 51 of Law No. 8 of 2011 concerning the Second Amendment to Law No. 24 of 2003 concerning the Constitutional Court. Law No. 24 of 2003 also concerns the Constitutional Court. Indonesia as an individual from the Unified Countries (UN), has affirmed its obligation to the standards of a majority rules government, the matchless quality of regulation, and the insurance of basic liberties.

In this framework, Amicus Curiae's participation reflects alignment with democratic principles which emphasize the importance of plurality of opinions, transparency, and public participation in the decision-making process. The existence of Amicus Curiae is also in line with the principle of fair access to justice, where every party who has relevant interests or

expertise must be allowed to contribute to dispute resolution[5]. Apart from that, legal support for Amicus Curiae's participation in the PHPU.PRES-XXII/2024 case can be found in national legal principles which regulate the right to express legal opinions or opinions. Although not explicitly regulated in certain laws, these principles have been recognized by judicial practice in Indonesia, especially with regards to protected audit at the Sacred Court. In this manner, through different legitimate bases, including public regulation, the standards of worldwide regulation, and appropriate legal practices, the cooperation of Amicus Curiae in instances of disagreements about the aftereffects of the 2024 official and bad habit official elections in Indonesia is not only applicable legal norms but is also a cohesive step in strengthening democratic mechanisms and protection human rights in this country.

The participation of Amicus Curiae in cases of dispute regarding the results of the 2024 presidential and vice-presidential general elections is also supported by the legal principles contained in The Civil Code (KUHPerdata) and the Civil Procedure Code (KUHAP), in addition to Article 51 of Law Number 8 of 2011 concerning the Second Amendment to Law Number 24 of 2003 concerning the Constitutional Court. Article 186 of the Civil Code gives the judge the authority to seek material and formal truth in a case[6]. In the context of resolving general election disputes, the presence of Amicus Curiae can help judges achieve a better understanding of complex legal issues, especially those relating to the constitutionality of a regulation or state action. In addition, the principles of openness and thoroughness in the judicial process exist. The KUHAP also supports the participation of Amicus Curiae. Article 195 of the Criminal Procedure Code states that trials must be open to the public unless otherwise provided by law. Thus, the presence of Amicus Curiae in the trial does not conflict with the principle of openness, but can increase the transparency and accountability of the judicial process[7].

2 Method

This sort of exploration is Regulating research. The methodologies utilized are a legal methodology and a calculated methodology. Secondary data were used as the data source. Information investigation was completed engagingly and subjectively[8]. Concluding is carried out using a deductive method from general to specific, especially those related to the research topic, namely Strategies for Obtaining Restitution in the Food of Casualties of the Wrongdoing of Illegal exploitation in the Viewpoint of Regulation no. 21 of 2007. Subjective information examination is completed in the event that the exact information got is as an assortment of words and not a progression of numbers and can't be set up into classes. In qualitative research, data can be collected in a variety of ways (interview observations, document instances, and recording tapes), and they are typically processed first before being used, such as data reduction, analysis, data interpretation, and triangulation[9].

3 Result and Discussion

3.1 Form of Amicus Curiae in the Judicial System in Indonesia Case Study of Dispute on the Results of the 2024 Presidential and Vice-Presidential Elections Domain of the Constitutional Court Decision Number 1/PHPU.PRES-XXII/2024

Policing, general, is a course of putting forth attempts to uphold or work genuinely legitimate standards as rules for conduct in the lawful relations of social and state life. From the perspective of the subject, law enforcement can be carried out by a broad subject or as a narrow subject's effort to enforce the law. From a wide perspective, the policing includes all legitimate subjects in each lawful relationship. Legal rules are being followed or enforced by anyone who follows normative rules or does or does not do something in accordance with those rules. Fair law enforcement can provide benefits or be effective for society. But apart from that, the community also hopes for law enforcement to achieve justice. Nevertheless, sometimes what is considered useful is not necessarily fair, and vice versa, what is felt to be useful is not necessarily useful for society. However, it should be noted that in enforcing the law it would be better to prioritize the value of justice[10].

Through the legal basis contained in the Civil Code and Criminal Procedure Code, Amicus Curiae's participation can be seen as an integral part of a fair and transparent judicial process. By providing independent and balanced legal opinions or views, Amicus Curiae can help ensure that decisions taken by the court are based on careful consideration and based on applicable law. Thus, Amicus Curiae's participation in cases of disputes over the results of the official and bad habit official elections in 2024 in Indonesia is not only by the legal principles contained in the Civil Code and KUHAP but is also a cohesive step in strengthening judicial and justice mechanisms in the country[11].

Apart from Article 51 of Law Number 8 of 2011 concerning the Second Amendment to Regulation Number 24 of 2003 concerning the Established Court, the Common Code (KUHPerdata), and the Common Strategy Code (KUHAP), the cooperation of Amicus Curiae on account of disagreements regarding the aftereffects of the 2024 official and bad habit official general decisions, it can likewise be upheld by the legitimate standards contained in Regulation Number 24 of 2003 concerning the Sacred Court. The Constitutional Court's Article 51 Law states that "the Constitutional Court decides a case based on deliberative considerations to reach consensus held behind closed doors." Although this article does not directly mention the participation of Amicus Curiae, the principle of deliberation and reaching consensus indicates that the Constitutional Court can consider the views of other parties who have special interests or expertise related to the case being decided.

Apart from that, Article 10 of Law Number 24 of 2003 also explains that the Constitutional Court functions as a "guardian of the constitution", whose task is to uphold the constitution and maintain the supremacy of the law. In this context, Amicus Curiae participation can be seen as one of the mechanisms that supports the function of guarding the constitution, by providing an independent and balanced view of the constitutional issues faced by the Court of the Constitution. As a result, the Constitutional Court's support for Amicus Curiae's participation in disputes over the results of Indonesia's 2024 Presidential and Vice-Presidential elections is supported by Law Number 24 of 2003[6]. Through the legal principles contained in this law, Amicus Curiae's participation can be considered a step in line with the Constitutional Court's mission to maintain the integrity of the Constitution and the supremacy of law in Indonesia.

In view of the lawful contemplations of the Court in Choice Number 55/PUU-XVII/2019 dated 26 February 2020 [Exhibit P-4], and Choice Number 85/PUU-XX/2022 dated 29 September 2022 [Exhibit P-5], as explained above, there is no longer a divider that differentiates between the adjudication of election results disputes and post-conflict regional election results disputes that therefore, there are strong grounds and reasons in the context of the petition for dispute over the results of the presidential election due to the occurrence of measurable violations and substantive violations, as proposed by the Petitioner based on previous decisions

of the Constitutional Court in adjudicating qualitative violations in post-conflict local election disputes.

Amicus Curiae's support in instances of disagreement about the consequences of the 2024 official and bad habit official elections in Indonesia is also strengthened by the existence of regulations that specifically regulate procedures and mechanisms for Amicus Curiae's participation in the judicial process.[12]. One of the regulations that can strengthen Amicus Curiae's participation is Constitutional Court Regulation Number 7 of 2014 concerning Procedures for Submitting Applications, Hearings, and Decisions in Resolving Disputes on General Election Results. In this regulation, some provisions regulate the possibility for parties who have special interests or knowledge to participate in the trial as parties providing information or opinions, including Amicus Curiae [10].

By having clear and transparent regulations and guidelines regarding Amicus Curiae participation, the Constitutional Court can ensure that the constitutional review process takes place in an orderly, fair, and accountable manner. It can also ensure that the contribution made by Amicus Curiae can be a valuable consideration for the Constitutional Court in making decisions that have a broad impact on society and the country. The following regulations can be used as guidelines:

- a. Article 51 of Regulation Number 8 of 2011 concerning the Second Change to Regulation Number 24 of 2003 concerning the Sacred Court: This article regulates trial procedures at the Constitutional Court. Paragraph (2) of this article emphasizes that constitutional review is carried out through open trials by applying the principles of justice, truth, openness, and thoroughness. Thus, although this article does not specifically mention Amicus Curiae participation, the principle of openness of trials regulated therein can provide a basis for the Constitutional Court to allow such participation.
- b. Article 186 of the Civil Code (Civil Code): This article gives the judge the authority to seek material and formal truth in a case. In the context of resolving general election disputes, the presence of Amicus Curiae can help judges achieve a better understanding of complex legal issues, especially those relating to the constitutionality of a regulation or state action.
- c. Article 195 of the Civil Procedure Code (KUHAP): This article states that trials must be open to the public unless otherwise provided by law. Thus, the presence of Amicus Curiae in the trial does not conflict with the principle of openness but can increase the transparency and accountability of the judicial process.
- d. Article 10 of Law Number 24 of 2003 concerning the Constitutional Court: This article explains that the Constitutional Court functions as a "guardian of the constitution" whose task is to uphold the constitution and maintain the supremacy of the law. This principle of constitutional guardianship can support the participation of Amicus Curiae as a mechanism that supports the function of constitutional guardianship, by providing an independent and balanced view of the constitutional issues faced by the Constitutional Court.

3.2 The Urgency of Amicus Curiae in the Judicial System in Indonesia Case Study of Disputes Concerning the Results of the Presidential and Vice-Presidential Elections in 2024 Domain of the Decision Number of the Constitutional Court 1/PHPU.PRES-XXII/2024

Amicus Curiae's participation in the dispute over the results of the 2024 presidential and vice-presidential elections in Indonesia creates an undeniable urgency. First of all, the tense political and social conditions post-election emphasize the need for a balanced and independent approach to resolving election disputes. In an atmosphere filled with political and partisan interests, Amicus Curiae emerges as a neutral voice based on objective legal expertise. Its presence ensures that the judicial process is not influenced by political pressure or personal interests, thereby strengthening the integrity of the judicial institution. Second, the urgency of Amicus Curiae's participation is also reflected in the complexity of legal issues related to disputes over general election results. Such cases often involve complex interpretations of the Constitution and election laws, requiring in-depth analysis from multiple legal viewpoints. By involving Amicus Curiae, the Constitutional Court can gain broader and deeper insight into the constitutional implications of the decisions to be taken, thereby improving the quality of the resulting legal decisions[13].

Furthermore, the urgency of Amicus Curiae's participation also arises from the need to ensure justice and equality in access to the judicial process. Parties involved in disputes over election results may have limited resources in fighting for their rights before the Constitutional Court. The presence of Amicus Curiae provides a guarantee that various legal perspectives and arguments can be accessed fairly by all parties involved, thereby ensuring that justice is truly realized. Another urgency of Amicus Curiae's participation is to increase the legitimacy and credibility of the Constitutional Court's decisions. By involving parties who have expertise and authority in their fields, the decision-making process becomes more transparent and based on objective considerations. This is important to maintain public trust in judicial institutions, especially in the context of resolving election disputes which have a significant impact on the future of the country[14].

Whereas according to the law, what can be judged by the Court is the vote count results, the violations that led to the vote count results being disputed must also be assessed to uphold justice. This is by the provisions of Article 24 paragraph (1) of the 1945 Constitution which reads, "Judicial power is an independent power to administer justice to uphold law and justice" and Article 28D paragraph (1) of the 1945 Constitution which reads, "Everyone has the right to recognition, guarantees, protection and certainty of fair law and equal treatment before the law." The two provisions of the 1945 Constitution are re-stated in Article 45 paragraph (1) of the Constitutional Court Law which reads, "The Constitutional Court decides cases based on the 1945 Constitution of the Republic of Indonesia by the evidence and the judge's beliefs."

In supporting the desperation of Amicus Curiae's cooperation on account of argument about the aftereffects of the 2024 official and bad habit official decisions in Indonesia, a few legitimate articles are a significant premise. One of them is Article 24 section (1) of the 1945 Constitution of the Republic of Indonesia, which affirms that the Established Court has the power to audit regulations against the 1945 Constitution. This article underlines the significance of the Established Court as an organization that safeguards the Constitution and controls the execution of regulations. - regulation, as well as empowering the dynamic interest of gatherings who have unique information connected with the law[7]. A strong legal foundation for Amicus Curiae participation is also provided by Article 28 paragraph 1 of the 1945 Indonesian Constitution. This article guarantees everyone's right to express opinions and convey opinions in writing or orally. Thus, Amicus Curiae participation can be seen as a real implementation of this constitutional right, where parties with specific expertise are allowed to contribute to the resolution of a constitutional case.

A crucial legal foundation for Amicus Curiae participation is also provided by Article 28 paragraph 1 of the 1945 Indonesian Constitution. This article guarantees everyone's right to

express opinions and convey opinions in writing or orally. Thus, Amicus Curiae participation can be seen as a real implementation of this constitutional right, where parties who have special expertise are allowed to contribute to the resolution of a constitutional case. Amicus Curiae participation is also supported by Law Number 24 of 2003, Article 8 paragraph 1 regarding the Constitutional Court. According to this article, the Constitutional Court has the responsibility and authority to uphold the Constitution and preserve the rule of law. By involving parties who have special expertise in cases involving constitutional interpretation, the Constitutional Court can ensure that every decision taken is based on in-depth and objective considerations.[6].

If the Constitutional Court only limits itself to recounting the voting results, justice will never be realized because the results will remain the same as the voting results, the process of which violates law and justice. Even though the Constitutional Court may not carry out criminal justice or administrative justice functions, it may still question and adjudicate any violations that have an impact on the vote count results, including The Presidential and Vice Presidential Elections are decided by the vote count. The Established Court will most likely stay steady in settling issues connected with infringement other than the position to conclude the vote considering results considered by the Protected Court in Choice Number 41/PHPU.DVI/2008.

Article 10 paragraph (2) of Law Number 24 of 2003 also confirms that the trial process at the Constitutional Court is open to the public. This shows the importance of transparency in the judicial process, where the participation of Amicus Curiae can enrich discussions and provide diverse points of view to the Constitutional Court, thereby ensuring that the decisions taken truly reflect the constitutional aspirations of the community. Thus, through a powerful legal foundation such as Article 24, Article 28, Article 8, furthermore, Article 10 of the Sacred Court Regulation, the cooperation of Amicus Curiae in instances of disagreement about the consequences of the 2024 official and Bad habit official elections in Indonesia is not only desirable but also necessary as an integral part of a fair judicial process, transparency and integrity[15].

4 Conclusion

1. On account of disagreements about the consequences of the 2024 official and bad habit official elections in Indonesia, the presence of Amicus Curiae is very important to ensure that the judicial process takes place fairly, objectively, and transparently. Amicus Curiae brings independent views and special expertise that can enrich discussions at the Constitutional Court and ensure that decisions taken are based on in-depth consideration.
2. Amicus Curiae participation is supported by several regulations and legal articles, both at the national and constitutional levels. These regulations and legal foundations provide a solid basis for Amicus Curiae's participation in the judicial procedure and emphasize the importance of transparency, openness, and equality in access to justice.
3. Through its contribution to the general election results dispute case, Amicus Curiae not only strengthens the integrity and credibility of the Constitutional Court but also helps build a strong foundation for an independent, professional, and integrity judiciary. Thus, the participation of Amicus Curiae is important in strengthening legal protection and human rights, as well as maintaining the sustainability of democracy and the supremacy of law in Indonesia.

5 Suggestions

1. The government and related institutions need to actively encourage Amicus Curiae's participation in the judicial process, including by providing clear guidance and facilitating access for parties who have special expertise related to the issues being considered. With broader Amicus Curiae involvement, the Constitutional Court will gain a richer and deeper perspective in making decisions that have a major impact on the state and society.
2. It is important to evaluate existing regulations and ensure that they properly support Amicus Curiae's participation. It includes improving procedures for submitting Amicus Curiae applications, providing practical guidance for interested parties, as well as ensuring the protection of the interests and integrity of Amicus Curiae in the judicial process.
3. It is expected that increasing public awareness about the role and importance of Amicus Curiae in the judicial process as well as broader legal education regarding the rights and obligations associated with Amicus Curiae participation can assist to strengthen the mechanism. Through inclusive legal education, the public can better understand the contribution of Amicus Curiae in ensuring justice and the supremacy of law in Indonesia.

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