



# Constitutional Court in The Perspective of A Democracy State System in The Digital Era

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**Abstract-** The Constitutional Court, as a judicial institution, was born from the womb of reformation, with the aim of building a culture and court management to produce quality decisions supported by information and communication technology (ICT). As a judicial institution, the Constitutional Court is required to modernize in various aspects. One aspect of judicial modernization is through the development of an E-Court-based judiciary. The development of an E-Court-based judiciary is a positive step in embracing technological advancements. In the context of developing an E-Court-based judiciary, it cannot be separated from various challenges faced. Considering the challenges related to the development of an E-Court-based judiciary, it is deemed necessary to address an interesting issue in this research, namely how the Constitutional Court operates within in the perspective a democratic system in the digital era. This issue is intriguing considering that an E-Court-based judiciary is a new development in the world of justice. Therefore, it is essential to explore how an E-Court-based judiciary can still provide a sense of justice and certainty to society. This research uses a normative juridical method with a post-positivism paradigm. The Constitutional Court operating within a democratic system in the digital era can provide certainty and justice to the public and those seeking justice. The freedom and constitutional rights of citizens are protected by the 1945 Constitution, which means that the state, through its institutions, must not violate these rights. Because the constitutional rights of citizens are fundamental rights that must be protected by the state. As a modern judiciary, the main task of the court, including the Constitutional Court as a constitutional judiciary, is to achieve justice for the parties involved in the litigation. In order to create justice, during the trial process, the Constitutional Court is required to adjudicate quickly, comprehensively, and reach all interested parties. One way to achieve this is through the provision of state-of-the-art information technology-based facilities and supporting equipment for the trial.

**Keywords:** digital era, *e-court*, constitutional right, ICT, democratic state.

## Introduction

The development of modern state systems recognizes fundamental rights enshrined as constitutional rights of every citizen. Constitutional rights are guaranteed by the 1945 Constitution of the Republic of Indonesia (UUD 1945). The guarantee of these rights is explicitly or implicitly stated in the constitution. This serves as a form of legal protection against actions that may be taken by holders of power or state authorities in their

relationship with citizens. Law, as a unified system, comprises: (1) institutional elements; (2) legal norms; and (3) the behavior of legal subjects who possess rights and obligations determined by normative rules (subjective and cultural elements). These three elements of the legal system encompass: (a) law-making activities; (b) law administration or enforcement activities; and (c) judicial activities in response to legal violations. Law adjudicating, commonly referred to as law enforcement in a narrow sense, involves the role of the police, public prosecutors, lawyers, and the judiciary in criminal matters, or the role of lawyers and the judiciary in civil matters.[1]

As a constitutional state, all actions and conduct of every citizen and state authorities must be based on the law.[2] The Rule of Law entails the presence of an impartial and independent judiciary in rendering decisions on all legal cases that arise within a country.[3] In principle, Indonesia must resolve all legal issues through legal processes, including the enforcement of the constitutional rights of citizens protected by the 1945 Constitution. According to Satjipto Rahardjo in Anis Ibrahim, the Indonesian legal community, which is expected to position itself as an enlightening force, is still slow in grasping and resolving complex legal issues, and this has implications for the sluggish law enforcement in Indonesia.[4]

Law enforcement in Indonesia can be carried out through litigation and non-litigation methods. The Constitutional Court, as a litigation institution, was born from the womb of reform, aiming to assure the public that it is different from the previous courts. This can be seen from the efforts of the Constitutional Court to establish a new court culture and management, emphasizing quality decisions supported by Information and Communication Technology (ICT), which has been adopted by courts in other countries for quite some time. Although the Supreme Court now also utilizes ICT in their proceedings, the Constitutional Court has made significant progress in adopting ICT despite its limitations. Since its establishment in 2003,[5] the Constitutional Court has transformed into a trusted court, not only known for its substantive and remarkable decisions but also for introducing E-Court to the public. This enables Indonesian citizens from Sabang to Merauke to easily access the Constitutional Court's decisions without the need to travel to the court physically. Ultimately, this has played a significant role in fostering collective constitutional awareness within society and building a culture of constitutional consciousness.[6]

As a country highly concerned with a culture of constitutional consciousness, this also has implications for Indonesia as a democratic nation. It raises questions about how democracy is applied and upheld in a diverse society through healthy political practices. Democracy is a form of political governance in which the power of government originates from the people, either directly (direct democracy) or through representation (representative democracy).[7] Meanwhile, a democratic system of governance is a system in which the power of a state is determined absolutely by the people, either directly or through their representatives. As a democratic country, democracy is intended to enhance political participation of the society, thereby serving as a response to various

national issues.[8] For instance, general elections (Pemilu), including elections for legislative members, the President and Vice President, as well as regional leaders, should serve as important moments to exercise the core principles of democracy. Democracy, for the Indonesian nation, is the most fitting form of governance that respects and guarantees the fulfillment of human rights.

Elections serve as a democratic mechanism for citizens and are a right guaranteed by the constitution, namely the right to equal opportunity under the law and governance as stipulated in the 1945 Constitution, which states, "All citizens have equal standing before the law and the government and are obligated to uphold the law and government without exception",[9]and "Everyone has the right to the recognition of the guarantee, protection, and fair legal certainty, as well as equal treatment before the law,"[10] along with the principle of equal opportunity..

In addition to its duties and roles, the Constitutional Court also has functions that derive from its authority. It serves as the guardian of the constitution, ensuring that no provisions in the laws contradict the 1945 Constitution, which serves as the supreme law. It functions as the guardian of democracy, ensuring that the democratic processes adhere to constitutional principles and constitutionalism. It acts as the final interpreter of the constitution, ensuring that the 1945 Constitution remains a living constitution capable of adapting to changing times, legal developments, and societal changes. It serves as the protector of citizens' constitutional rights, guaranteeing the protection of constitutional rights for citizens. Lastly, it acts as the protector of the state's ideology, ensuring that legislative enactments align with and do not contradict Pancasila, the nation's ideology and philosophical foundation.[11]

As a judicial institution, the Constitutional Court cannot be separated from the development of human civilization. Likewise, the present-day modern world is intertwined with human civilization. With rapid technological advancements in various fields, it can transform human lifestyles. Therefore, adjustments are required, including within the judiciary. Currently, judicial institutions are expected to modernize in various aspects. One aspect of modernizing the judicial body is through the development of an E-Court-based judiciary.[12] The development of an E-Court-based judiciary is a positive step in embracing technological advancements.[13] In the context of developing an E-Court-based judiciary, it is inevitable to encounter various challenges. Therefore, it is deemed necessary to address an intriguing issue in this research, namely how the Constitutional Court operates within in the perspective a democratic system in the digital era. This issue is particularly interesting considering that an E-Court-based judiciary is a new development in the realm of justice. Thus, it is important to explore how an E-Court-based judiciary can continue to provide a sense of justice and certainty to society.

## Research Methodology

This research employs a normative approach with a constructivist paradigm, asserting that the Constitutional Court within a democratic system in the digital era can provide certainty and justice to society and those seeking justice. Therefore, it is necessary to examine whether this leads to an increased trust in the existing judicial system or, conversely, a decreased trust. This research adopts a normative approach, emphasizing that the establishment of legislation must align with the principles of Pancasila and the 1945 Constitution as the highest laws in the prevailing legislative system of the Republic of Indonesia.[14] In Wignjosobroto's terms, this can be considered a doctrinal research study.[15]

## Discussion

Constitutional rights are rights guaranteed by the constitution or fundamental laws, whether explicitly or implicitly stated, and must be respected by all branches of state power. In other words, the recognition and respect for constitutional rights as part of the constitution also imply limitations on state power (checks and balances). In order to protect the constitutional rights of the public, there must be legal avenues as mechanisms to enforce the protection of these rights, allowing rights holders to defend their rights in the event of violations.[16]

Hence, it is important to understand the characteristics of constitutional rights, which are as follows:[17]

- a. Constitutional rights have a fundamental nature. Their fundamental nature is not derived from the historical development of Western individual rights doctrine regarding natural rights, but rather because fundamental rights are guaranteed by and are integral parts of a written constitution, which represents fundamental law.
- b. Constitutional rights, as parts of and protected by a written constitution, must be respected by all branches of state power (in this case, the legislative, executive, and judicial branches). Therefore, no state organ is allowed to act contrary to or violate these constitutional rights.
- c. Due to the fundamental nature of constitutional rights, any action by a state organ that contradicts or violates these rights must be declared null and void by the judiciary. Constitutional rights would lose their significance as fundamental rights if there were no guarantees for their fulfillment and if they could not be defended in court against actions by state organs that violate or contradict these rights.
- d. The protection provided by the constitution for constitutional rights is protection against state actions or violations by the state, not against actions or violations by other individuals.

- e. Constitutional rights, as rights with a fundamental nature, ultimately serve as limitations on state power.

In relation to its function as the guardian of the constitution (constitutional rights), which means safeguarding the sanctity of a constitution, this function is solely possessed by one authorized and independent state institution, namely the Constitutional Court. The Constitutional Court serves as an institution responsible for interpreting and safeguarding the constitution. In principle, the authority of the Constitutional Court is not limited solely to the matters stated in Article 24C of the 1945 Constitution or Law Number 24 of 2003 concerning the Constitutional Court (State Gazette of the Republic of Indonesia Year 2003 Number 98, Supplement to the State Gazette of the Republic of Indonesia Number 4316, hereinafter referred to as the Constitutional Court Law), as last amended by Law Number 7 of 2020 concerning the Third Amendment to Law Number 24 of 2003 concerning the Constitutional Court (State Gazette of the Republic of Indonesia Year 2020 Number 216, Supplement to the State Gazette of the Republic of Indonesia Number 6554, hereinafter referred to as the Constitutional Court Law). However, implicitly, the authority of the Constitutional Court includes overseeing the constitution and resolving cases filed by individual citizens who believe that their constitutional rights or basic rights have been violated by decisions made by any state institution, whether legislative, executive, or judicial.[16]

The duties and functions of the Constitutional Court, as stated in the General Explanation of the Constitutional Court Law, involve handling specific state and constitutional cases with the aim of ensuring responsible implementation of the constitution in accordance with the will of the people and the aspirations of democracy. The existence of the Constitutional Court serves to ensure the establishment of a stable government and correct past experiences in state affairs caused by conflicting interpretations of the constitution. Article 28 of the 1945 Constitution states, "The freedom to associate and assemble, express thoughts orally and in writing, and so forth, shall be established by law." Based on this article, it is clear that the freedom and constitutional rights of citizens are protected by the 1945 Constitution, meaning that the state, through its institutions, must not violate these rights. The constitutional rights of citizens are fundamental rights that must be protected by the state.[16]

In essence, the legal avenue available to citizens whose constitutional rights are violated or neglected by public officials or government authorities can only be defended and constitutionally protected through the constitutional judicial process at the Constitutional Court, specifically through the mechanism of testing laws against the Constitution, as stipulated in Article 24C of the 1945 Constitution. This is because the authority of the Constitutional Court is explicitly and restrictively regulated within the framework of the 1945 Constitution.[18]

Normatively, citizens/individuals who believe that their constitutional rights have been violated can submit a petition to the Constitutional Court. This method is substantively referred to as an extraordinary remedy open to citizens, allowing them to

challenge public interference in their basic constitutional rights. It provides a means for individuals to seek redress and reject any public intervention infringing upon their constitutional rights.[19] The legal standing to file a petition before the Constitutional Court is explicitly regulated in Article 51 of the Constitutional Court Law, which states:

- (1) *The petitioner is the party who considers their constitutional rights and/or authority to be infringed upon by the enactment of a law, namely:*
  - a. *Individual Indonesian citizens;*
  - b. *Indigenous customary law communities, as long as they are still in existence and in accordance with societal developments and the principles of the Unitary State of the Republic of Indonesia as regulated by law;*
  - c. *Public or private legal entities; or*
  - d. *State institutions.*
- (2) *The petitioner must clearly state in their petition the specific details of their constitutional rights and/or authority as referred to in paragraph (1).*
- (3) *In the aforementioned petition as stated in paragraph (2), the petitioner must clearly state that:*
  - a. *The formation of the law does not comply with the provisions based on the 1945 Constitution of the Republic of Indonesia; and/or*
  - b. *The content of the provision, article, and/or part of the law is deemed to be in contradiction with the 1945 Constitution of the Republic of Indonesia.*

Normatively, the protection of citizens' rights, particularly those related to constitutional rights, is carried out by the Constitutional Court. According to Mohd. Mahfud MD, there are 10 negative formulations (prohibitions) that should serve as guidelines for the Constitutional Court in exercising its authority, as follows:[18]

- 1) In conducting the constitutional review of laws, the Constitutional Court must not issue rulings that have regulatory implications; the annulment of a law should not be accompanied by provisions, instructions, or institutions that prescribe the re-regulation of the annulled law. This is emphasized because the legislative branch is responsible for regulation. Therefore, the Constitutional Court is only authorized to declare whether a law or its provisions are constitutional or unconstitutional, accompanied by a statement that the decision is not legally binding.
- 2) In the constitutional review process, the Constitutional Court must not make ultra petita decisions (decisions beyond the scope of the request) because doing so would mean the Court is intervening in the legislative domain. However, it is argued by

some that the Constitutional Court may issue ultra petita decisions if the content of the law under judicial review is directly related to other inseparable provisions or the core issue at hand.

- 3) The Constitutional Court must not base its rulings on one law as the grounds for annulling another law, as the Court's duty is to assess the constitutionality of laws with respect to the Constitution, not one law with respect to another law.
- 4) The Constitutional Court must not interfere in matters delegated by the Constitution to the legislative branch for regulation through laws according to their own political choices. Matters explicitly assigned by the Constitution to be regulated by laws, based on the legislative branch's political choices, cannot be invalidated by the Constitutional Court unless they clearly violate the 1945 Constitution.
- 5) The Constitutional Court must not base its rulings on theories that are not explicitly endorsed by the Constitution, as there are numerous and diverse theories that may contradict each other and have equal distance from the Constitution. Similarly, the Court must not rely on practices in other countries, no matter how advanced they may be, as constitutional provisions can differ in different countries. Hence, the basis for rulings should be the content of the 1945 Constitution and its original intent.
- 6) In conducting reviews, the Constitutional Court must not violate the principle of *nemo iudex in causa sua*, which means not deciding on matters related to its own interests.
- 7) Constitutional Court judges must not discuss or provide opinions to the public regarding ongoing cases being examined by the Constitutional Court, including during seminars and official speeches. This is important to ensure that the judges are not influenced by their own statements when making decisions, and to prevent the public from being polarized by speculations about the Court's forthcoming rulings.
- 8) Constitutional Court judges must not actively seek cases by encouraging anyone to file lawsuits or petitions before the Court. Let the initiative to do so come from the justiciable parties themselves.
- 9) Constitutional Court judges must not proactively offer themselves as mediators in political disputes between state institutions or political entities, as such actions are political in nature rather than legalistic. While acting as a political mediator may have good intentions, it is not within the purview of the Constitutional Court.
- 10) The Constitutional Court must not express opinions on the existence or the merits of the prevailing Constitution, or whether the current Constitution should be amended or preserved. The Court is obligated to adhere to and safeguard the existing and applicable Constitution, while matters of preserving or amending the Constitution fall under the jurisdiction of other authorized institutions.

The Constitutional Court, as a modern and reliable judicial institution, embodies certain characteristics. 'Modern' signifies that all activities are carried out effectively and efficiently, utilizing advanced judicial technology and information and communication technology, which are continuously maintained. Meanwhile, 'reliable' refers to the qualities of honesty, integrity, providing certainty, and being dependable in accordance with the noble values of the judiciary and principles of good governance in the administration of justice.[20]

The principle of good governance in the administration of justice is implemented through the Constitutional Court's Judicial System Services, which consist of four types of services: timely hearing service, case handling hospitality service, copy submission service, and case handling transparency information service. The following is an explanation of the index values for the four types of Judicial System Services provided by the General Secretariat and Court Clerks of the Constitutional Court.[20]

**Table 1**  
**Justice System Service Value per Service Element**

No.	Service Element	Service Score	Index Score	Service Quality
1.	Court Timing Service	86.29	3.45	Good
2.	Case Handling Protocol Hospitality	87.32	3.49	Good
3.	Application Copy Submission Service	82.22	3.29	Good
4.	Case Handling Information Transparency Service	82.32	3.29	Good
	<b>Average Score</b>	<b>84.56</b>	<b>3.38</b>	<b>Good</b>

Source: Registrar Office and Secretariat General of the Constitutional Court, Rencana Strategis Mahkamah Kontitusi RI (2020 – 2024), p. 34.

Based on the survey results, several notes have been obtained regarding the prioritized improvements in the judicial system. Firstly, there is a need to address the timeliness of submitting copies of applications. This is because the submission of copies of applications is often delayed or not done in a timely manner. Secondly, there is a need to enhance transparency and clarity of information, as the delivery of information often takes too long. Respondents have provided suggestions, such as the use of a mobile



application, which would eliminate the need for the Constitutional Court to send written notifications regarding the distribution of applications to the Parliament or the President. Additionally, it is recommended to promptly address incomplete copies of applications, and it is expected that the submission of copies of applications is done swiftly to all relevant parties.[20]

Furthermore, the support for the Constitutional Court is outlined in the Strategic Plan of the Constitutional Court of the Republic of Indonesia (2020-2024). The strategic issues that will be faced by the Constitutional Court are as follows:[20]

1. Prepare the governance and implementation framework for handling the simultaneous legislative, presidential and vice-presidential elections, as well as regional head elections in 2024, or according to the synchronized election design to be determined by the legislature. Prepare contingency measures in case a specialized judicial body for resolving regional election disputes has not been established by 2024, so that the handling of such cases remains under the jurisdiction of the Constitutional Court.
2. Enhance the role of the Constitutional Court in respecting, protecting, and fulfilling the constitutional rights of citizens by anticipating additional authorities, such as adjudicating constitutional complaints, constitutional questions, and reviewing legislation, all under one roof, in accordance with the evolving discourse in society.
3. Modernize the judicial system by:
  - a. Optimizing the utilization of information technology in the judicial system (e-judiciary) and further developing it through monitoring and evaluation (e-monitoring and evaluation), with the aim of establishing an e-budgeting base. The development of this system is expected to achieve an advanced and accountable IT-based judicial system.
  - b. Striving for improved service quality standards that are professional towards Constitutional Judges through the maturation of technical and substantive judicial support, modern court facilities, provision of comprehensive references, professional judicial personnel, research and studies, strengthening cooperation with stakeholders, and solidifying program plans and budgets.
  - c. Maximizing the use of information and communication technology in general administration support.
4. Organize and strengthen the organizational structure and position of the Court Clerk's Office, as well as functional positions within the Court Clerk's Office and the General Secretariat of the Constitutional Court.
5. Strengthen the governance of devices and the enforcement of quality supervision standards and continuous internal control.

6. Enhance the role of the Constitutional Court in international engagements to realize a constitutional democratic state by actively participating in international forums.
7. Enhance the integrity, competence, and professionalism of human resources in order to cultivate excellence.
8. Prepare strategic measures to encourage the addressees of Constitutional Court decisions, namely the legislature and the president, law enforcement agencies, and relevant parties, both directly and indirectly, to follow up on and implement the decisions of the Constitutional Court.

As a modern court, the primary task of the judiciary, including the Constitutional Court as a constitutional adjudicating body, is to ensure justice for the parties involved in a case. In order to achieve justice, during the trial process, the Constitutional Court is required to adjudicate swiftly, comprehensively, and reach all relevant parties. To meet these demands, the Constitutional Court, through its Court Clerk's Office and General Secretariat, has made efforts in recent years to provide state-of-the-art information technology-based facilities and equipment of high quality to support the trial process.[20]

However, the provision of information technology-based trial facilities does not directly change the behavior of human resources (HR). The Constitutional Court faces challenges in terms of the suboptimal capacity of the Constitutional Court's HR and the parties involved in or seeking litigation to effectively apply and utilize the technology-based facilities. This condition results in the suboptimal functionality or utility of such facilities or equipment. This issue needs to be seriously addressed to ensure that the benefits and use of information technology can be felt by the Constitutional Court and, most importantly, by those seeking justice.[20]

On the other hand, the rapidly evolving world of information technology brings forth various reliable yet cost-effective technological applications. This means that the development of information technology is becoming increasingly user-friendly for the community, both in terms of easy implementation, accessibility, and affordability. The ease of accessing information technology provides a wide opportunity for the Constitutional Court to obtain information from multiple sources quickly and accurately, as well as to disseminate its decisions as widely as possible without being hindered by distance, time, and location. Similarly, with the assistance of reliable information technology, individuals seeking justice are expected to be able to access the justice-seeking processes conducted by the Constitutional Court at any time.[20]

E-Court is an instrument within the judiciary that serves as a means of providing services to the public, such as online case registration, online payment (for courts within the Supreme Court jurisdiction), online summons, and online hearings.[21] The E-Court application is expected to enhance its function and service by enabling online case registration, allowing the public to save time and costs when filing a case.[22] The E-Court application is an implementation of information technology, where the government must be astute in recognizing opportunities presented by technology, leading to the

creation of an internet-based application called E-Court. The purpose of E-Court is to facilitate the public in engaging in judicial activities through technology, thereby saving time and costs, in line with the pursuit of efficient and effective public services.[20]

Theoretically, the E-Court application proves to be useful in conducting remote hearings or long-distance examinations during the evidentiary phase, as it eliminates the need for the physical presence of the individuals being examined in the court proceedings. Through teleconferencing, the proceedings become faster and more efficient. In practical terms, the E-Court application provides effective, efficient, prompt, and straightforward services.[20]

In carrying out its constitutional mandate, the Constitutional Court is supported by the General Secretariat (Setjen) and the Court Registry. The General Secretariat is a Level I working unit, while the Court Registry is an equivalent Level I working unit. The Court Registry is led by a Court Registrar who holds a functional position equivalent to Level I. During the inauguration of the President and Vice President on October 20, 2020, President Jokowi announced five priority programs, namely: (1) human resource development, (2) infrastructure development, (3) simplification of regulations, (4) bureaucracy simplification, and (5) economic transformation. Among these priority programs, bureaucracy simplification will be carried out by streamlining the hierarchical positions and expanding functional positions. The President desires a lean but highly functional organizational structure for the bureaucracy. Therefore, the simplification of hierarchical positions in the Constitutional Court is imperative.[20]

The simplification of hierarchical positions in the Constitutional Court will have implications on the organizational structure of the Court Registry and the General Secretariat of the Constitutional Court. This organizational restructuring presents an opportunity to evaluate the existing organizational structure as a whole, including functional positions, and assess whether the general administrative services and judicial administration services have been optimally provided to support the Constitutional Court's constitutional duties.[20]

In accordance with the authority of the Constitutional Court through the judicial review of laws against the Constitution (judicial review), which aims to safeguard the constitutional rights of the people, the lost rights of the people can be restored through a fair judicial process. Through judicial review, conflicts of interest can be resolved in a just manner based on the mandate of the Constitution. Thus, the resolution through the legal system finds a place in the hearts of the people.[23]

Furthermore, the duties and role of the Constitutional Court become increasingly important and strategic when additional ad hoc or temporary authority is entrusted to the Constitutional Court, namely to adjudicate disputes over the results of regional head elections (Pilkada). However, in its development, this ad hoc authority has become a permanent authority of the Constitutional Court through Constitutional Court Decision Number 85/PUU-XX/2022, pronounced in an open plenary session on September 29,

2022, which essentially grants the Constitutional Court additional authority to decide disputes regarding the results of regional head elections.

Regarding this matter, the Constitutional Court, in its decision on case Number 85/PUU-XX/2022, stated that the interpretation of the 1945 Constitution no longer distinguishes between national general elections and regional head elections, which systematically leads to a change in the interpretation of the Constitutional Court's authority as regulated in Article 24C paragraph (1) of the 1945 Constitution. Article 24C paragraph (1) of the 1945 Constitution states that the Constitutional Court has the authority to adjudicate in the first and final instance, with its decisions being final, among other things, to decide disputes over the results of general elections. Furthermore, this constitutional meaning is derived from various laws related to the authority of the Constitutional Court, especially the Judicial Power Law. Ultimately, it must be understood that cases concerning disputes over the results of general elections, which are adjudicated by the Constitutional Court, include general elections for electing the President and Vice President; electing members of the People's Consultative Assembly; electing members of the Regional Representative Council; electing members of the Regional People's Representative Council at the provincial, district, and municipal levels; as well as electing regional heads at the provincial, district, and municipal levels.[24]

According to the Constitutional Court, with the elimination of the distinction between regimes in elections and the declaration that the authority of the special judicial body has become the authority of the Constitutional Court, the provisions of Article 157 paragraph (1) and paragraph (2) of Law Number 10 of 2016 on the Second Amendment to Law Number 1 of 2015 concerning the Establishment of Government Regulation in Lieu of Law Number 1 of 2014 Concerning the Election of Governors, Regents, and Mayors (State Gazette of the Republic of Indonesia Year 2016 Number 130, Additional State Gazette of the Republic of Indonesia Number 5898, hereinafter referred to as Law 10/2016), which regulate the existence and planned establishment of the special judicial body for elections, are a *conditio sine qua non* for the existence of Article 157 paragraph (3) of Law 10/2016. Article 157 paragraph (3) of Law 10/2016 regulates the institution temporarily granted the authority to act as the election judicial body during the transition period or when the special judicial body for elections has not been established. Therefore, the authority of the Constitutional Court to examine and adjudicate disputes over election results is no longer limited only to "until the establishment of the special judicial body," but will be permanent, as such a special judicial body will no longer be formed. To clarify the meaning of Article 157 paragraph (3) of Law 10/2016, which no longer contains a temporary nature, according to the Court, the phrase "until the establishment of the special judicial body" must be struck out or declared incompatible with the 1945 Constitution. Thus, the disputes over the final stage of vote tabulation in the election are examined and adjudicated by the Constitutional Court.[24]

As one of the judicial institutions, in the resolution of cases, the Constitutional Court upholds the constitutional rights of justice seekers. The development of a modern

ICT-based state system utilizes e-court (electronic case administration) and e-litigation (electronic trial) services in the litigation process. The presence of e-court and e-litigation signifies the beginning of a new era in modern justice in Indonesia. This is part of the justice reform efforts in the Indonesian judicial system. By synergizing information technology (IT) and procedural law (IT for judiciary), judicial reform in pursuit of an ideal judiciary becomes a necessity. Transparency and accountability to the public, especially to justice seekers, are key characteristics of an ideal court (court excellent).[25]

Furthermore, the proceedings in the Constitutional Court are currently based on ICT. The Constitutional Court continues to improve its IT-based applications, including simple.mkri.id, E-BRPK, E-Minutes, Video Conference (Vicon), enhancing the preparation of court transcripts in the Constitutional Court, and improving infrastructure support. Through the use of Vicon or remote proceedings, parties involved in cases or hearings at the Constitutional Court can utilize Vicon facilities or platforms like Zoom Meeting, eliminating the need to physically travel to the Constitutional Court and incur expenses for attending hearings. Additionally, parties seeking consultation with the Constitutional Court can now do so through the Court's website, without incurring any costs other than internet charges, and the process can be carried out quickly. Summons to attend hearings and copies of judgments can also be obtained by the parties through the Constitutional Court's website. Other parties in need of court transcripts or judgments can download them from the Constitutional Court's website, accessible at any time. During proceedings in the Constitutional Court, teleconferencing or remote facilities are available in addition to physical attendance, greatly facilitating the speed of hearings and reducing expenses incurred by the parties for participating in Constitutional Court proceedings.[26]

As society becomes more sophisticated in exercising their constitutional rights and their increasing demand for justice, the Constitutional Court needs to continually improve itself in line with societal needs and developments. One of the self-improvement measures that the Court can provide to the public is by embracing the advancements of the ICT era and its impact on the applications submitted by the Petitioners.[26]

## **Conclusion**

The Constitutional Court, in exercising its authority, including the expanded jurisdiction to settle disputes over the results of regional head elections, which has become a permanent authority of the Constitutional Court through Constitutional Court Decision No. 85/PUU-XX/2022, represents the democratic system of the state. This system prioritizes the constitutional rights of justice seekers and embraces the advancements of modern governance based on ICT. This implies that the court proceedings in the Constitutional Court are conducted through the utilization of e-court and e-litigation services. This is a manifestation of the Constitutional Court's participation in judicial reform, aiming to achieve an ideal and modern judiciary, characterized by open access, transparency, and accountability to the public, regardless of their location, particularly to justice seekers.

## Recommendations

In the future, the Constitutional Court needs to continuously improve itself in accordance with the needs and developments of society, prioritizing the advancement of a modern governance system based on ICT.

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