

Penerapan aspek kepastian hukum dan kemanfaatan dalam proses penyelesaian sengketa tahapan pemilihan umum = The application of legal certainty and expediency principle in the dispute resolution of stages of general election

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Abstrak

[ABSTRAK

Penelitian ini membahas proses penyelesaian sengketa tahapan Pemilihan Umum yang terpengaruh oleh Putusan Mahkamah Konstitusi Nomor 41 PHPU D VI 2008 yang berimplikasi dikesampingkannya aspek kepastian hukum dan kemanfaatan karena terdapat beberapa lembaga negara yang memiliki kewenangan untuk menangani sengketa dalam tahapan Pemilu seperti Bawaslu DKPP Peradilan Umum Peradilan Tata Usaha Negara Mahkamah Agung serta Mahkamah Konstitusi Penelitian ini adalah penelitian kualitatif dengan menghasilkan penelitian deskriptif analitis Hasil penelitian menyarankan pembentuk undang undang membuat suatu peraturan perundang undangan mengenai proses penyelesaian sengketa Pemilu yang mengharmonisasi kewenangan lembaga lembaga yang memiliki kewenangan untuk menangani sengketa dalam tahapan Pemilu dengan memberikan jangka waktu dalam penyelesaiannya serta menjadikan Mahkamah Konstitusi sebagai peradilan Pemilu terakhir dimana tidak ada upaya hukum maupun badan peradilan lain yang menangani perkara Pemilu setelah Putusan Mahkamah Konstitusi kecuali perkara yang berkaitan dengan pelanggaran etik maupun tindak pidana.

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ABSTRACT

The focus of this study is the dispute resolution of stages of general election is affected by Constitutional Court Judgment No 41 PHPU D VI 2008 which has implication for ruled out legal certainty and expediency principle because there are state agencies what have the authority to adjudicate for dispute resolution of stages of general election like election supervisory board honorary of election executor board criminal court administrative court supreme court and constitutional court This study is a qualitative research for generate descriptive analytical The researcher suggest that the legislator form a regulation about dispute resolution general election process which harmonization an authority of state agencies which have an authority for adjudicate for dispute resolution of general election and the regulation gives a period of time for the resolution and constitutional court be a last court of general election which there is no other remedy or other bodies to adjudicate after constitutional court judgment except violations of ethics or criminal of general election. , The focus of this study is the dispute resolution of stages of general election is affected by Constitutional Court Judgment No 41 PHPU D VI 2008 which has implication for ruled out legal certainty and expediency principle because there are state agencies what have the authority to adjudicate for dispute resolution of stages of general election like election supervisory board honorary of election executor board criminal court administrative court supreme court and constitutional court This study is a qualitative research for generate descriptive analytical The researcher suggest that the legislator form a regulation about dispute resolution general election process which harmonization an authority of state agencies which have an authority for adjudicate for dispute resolution of general election and the regulation gives a period of time

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