

A COMPARATIVE ANALYSIS OF MECHANISMS FOR SETTLEMENT OF ELECTION DISPUTES: Case Studies of Indonesia and South Africa

Dwanda Julisa Sistyawan*

Students Doctoral of Law Universitas Diponegoro

Imam Barjo Street Number 1, Semarang

email: dwanda.js@gmail.com

Retno Saraswati, Lita Tyesta ALW

Faculty of Law Universitas Diponegoro, Indonesia

Imam Barjo Street Number 1, Semarang

Novian Uticha Sally

Political Science and International Relations

University of Dundee, Dundee, Scotland, United Kingdom

Marcellus Jayawibawa

Universitas Bhayangkara Jakarta Raya

Harsono No.67 Ragunan, Pasar Minggu, Jakarta Selatan, 12550

DOI: [10.30631/alrisalah.v24i2.1610](https://doi.org/10.30631/alrisalah.v24i2.1610)

Submitted: July 31, 2024; Revised: September 8, 2024; Accepted: December 30, 2024

Abstract: This study provides a comparative analysis of the mechanisms for settling election disputes in Indonesia and South Africa, focusing on transparency, accountability, effectiveness, and efficiency. Despite notable democratic advancements, both nations continue to grapple with challenges that could undermine the legitimacy of electoral outcomes and democratic stability. The research investigates how transparent and inclusive these mechanisms are, the extent of public scrutiny, and the accountability measures in place for responsible parties. It also assesses the timeliness of dispute resolution, enforceability of decisions, and their overall impact on electoral integrity and legitimacy. Key findings highlight the roles of Indonesia's Bawaslu and South Africa's IEC in ensuring openness and public participation while identifying political interference, resource constraints, and procedural complexities as significant challenges. The study further explores best practices such as engaging civil society, simplifying procedures, and adopting technology to enhance dispute resolution mechanisms. Through this analysis, the research contributes to the understanding of electoral governance and offers policy recommendations to strengthen democratic institutions in Indonesia and South Africa.

Keywords: Accountability, Bawaslu, Dispute Resolution Mechanism, IEC, Transparency.

Abstrak: Studi ini memberikan analisis komparatif tentang mekanisme penyelesaian sengketa pemilu di Indonesia dan Afrika Selatan, dengan fokus pada transparansi, akuntabilitas, efektivitas, dan efisiensi. Terlepas dari kemajuan demokrasi yang signifikan, kedua negara terus bergulat dengan tantangan yang dapat merusak legitimasi hasil pemilu dan stabilitas demokrasi. Penelitian ini menyelidiki seberapa transparan dan inklusif mekanisme ini, sejauh mana pengawasan publik, dan langkah-langkah akuntabilitas yang berlaku untuk pihak yang bertanggung jawab. Ini juga menilai ketepatan waktu penyelesaian sengketa, keberlakuan keputusan, dan dampaknya secara keseluruhan terhadap integritas dan legitimasi pemilu. Temuan utama menyoroti peran Bawaslu Indonesia dan IEC Afrika Selatan dalam memastikan keterbukaan dan partisipasi publik sambil mengidentifikasi campur tangan politik, kendala sumber daya, dan kompleksitas prosedural sebagai tantangan yang signifikan. Studi ini lebih lanjut mengeksplorasi praktik terbaik seperti melibatkan masyarakat sipil, menyederhanakan prosedur, dan mengadopsi teknologi untuk meningkatkan mekanisme penyelesaian sengketa. Melalui analisis ini, penelitian ini berkontribusi pada pemahaman tentang tata kelola pemilu dan menawarkan rekomendasi kebijakan untuk memperkuat lembaga demokrasi di Indonesia dan Afrika Selatan.

Kata kunci: Akuntabilitas, Bawaslu, Mekanisme Penyelesaian Sengketa, IEC, Transparansi.

Introduction

Elections are the cornerstone of democratic governance, allowing citizens to express their political preferences and elect representatives to govern. However, the integrity and fairness of elections can be compromised by disputes arising from allegations of irregularities, fraud, or other electoral malpractices.¹ Resolving these disputes is crucial for upholding the legitimacy of electoral outcomes and maintaining public trust in the democratic process.² This research embarks on a comparative analysis of the mechanisms for settling election disputes, focusing on the legislative election results in two

diverse yet democratically evolving nations: Indonesia and South Africa.

Indonesia and South Africa, emerging from legacies of colonialism and authoritarianism, have embarked on remarkable journeys toward democratic governance, marked by establishing vibrant multiparty systems and regular elections. Indonesia, the fourth most populous nation globally, underwent a monumental transition from authoritarianism to democracy in 1998 following the fall of the Suharto regime.³ This pivotal moment began a new era of political pluralism and civic participation. Since then, Indonesia has witnessed several successful legislative and presidential elections, each serving as a testament to the nation's

¹ Carolien van Ham, "Electoral Integrity," in *The Oxford Handbook of Political Representation in Liberal Democracies*, ed. Robert Rohrschneider and Jacques Thomassen (Oxford University Press, 2020), 112–33, <https://doi.org/10.1093/oxfordhb/9780198825081.013.5>.

² P Norris, "International Forces," in *Why Elections Fail* (Cambridge University Press, 2015), 87–112, <https://doi.org/10.1017/CBO9781107280908.005>.

³ Stephen Sherlock, "Democratic Achievement and Policy Paralysis: Implications for Indonesia's Continued Ascent," in *Indonesia's Ascent* (London: Palgrave Macmillan UK, 2015), 112–29, https://doi.org/10.1057/9781137397416_6.

commitment to democratic principles.⁴ These elections have facilitated the peaceful transfer of power and strengthened Indonesia's position as a democratic leader in Southeast Asia.⁵ Similarly, South Africa's transition from apartheid to democracy in the early 1990s ushered in a period of profound political transformation. The historic 1994 elections, which saw Nelson Mandela become the country's first black president, symbolized the triumph of democracy over decades of racial oppression and segregation.⁶ Since then, South Africa has conducted multiple national and provincial elections, cementing its status as a beacon of democracy on the African continent.⁷ Despite facing numerous challenges, including socioeconomic disparities and political tensions, South Africa continues to demonstrate resilience in its democratic journey, with each election reinforcing the nation's commitment to inclusivity, equality, and democratic governance.⁸ In addition, South Africa's transition from apartheid to democracy in the early 1990s has been a remarkable success, defying expectations of single-party domination.⁹

This transition was made possible by various factors, including the unexpected demise of apartheid and the long-term trends that facilitated majority rule.¹⁰ The country's ability to replace a repressive system with a market democracy while achieving impressive economic and social growth is a testament to its resilience. Nelson Mandela's leadership and commitment to equality were crucial in this transition.¹¹

The transition to a market democracy in South Africa, marked by the unexpected demise of apartheid, was facilitated by a complex interplay of factors that underscored the nation's resilience. The end of apartheid, a system of institutionalized racial segregation and discrimination, was both a sudden and gradual process influenced by long-term socio-economic trends and the relentless struggle for equality by the oppressed majority.¹² One of the pivotal elements in this transition was the series of internal and external pressures that the apartheid regime faced over the years. Internally, widespread resistance from anti-apartheid movements, such as the African National Congress (ANC) and the Pan Africanist Congress (PAC), played a significant role. These groups, through sustained activism, civil disobedience, and, at times, armed struggle, continuously challenged the legitimacy of the apartheid government. The mass mobilization of ordinary South Africans, coupled with strikes, boycotts, and protests, kept the issue at the forefront of national and international discourse.¹³

⁴ Dewi Fortuna Anwar, "Indonesia's Contribution to Peaceful Change in International Affairs," in *The Oxford Handbook of Peaceful Change in International Relations* (Oxford University Press, 2020), 551–66, <https://doi.org/10.1093/oxfordhb/9780190097356.013.34>.

⁵ Dede Rosada, "Model Of Democracy In Indonesia," in *Proceedings of the Third International Conference on Social and Political Sciences (ICSPS 2017)* (Paris, France: Atlantis Press, 2018), <https://doi.org/10.2991/icsp-17.2018.22>.

⁶ Chris Tapscott, "South Africa in the Twenty-First Century: Governance Challenges in the Struggle for Social Equity and Economic Growth," *Chinese Political Science Review* 2, no. 1 (March 6, 2017): 69–84, <https://doi.org/10.1007/s41111-017-0055-1>.

⁷ R. P. Inman and D. L. Rubinfeld, "Understanding the Democratic Transition in South Africa," *American Law and Economics Review* 15, no. 1 (March 1, 2013): 1–38, <https://doi.org/10.1093/aler/ahs023>.

⁸ Karoline Steinbacher, "Case Study: South Africa," in *Exporting the Energiewende* (Wiesbaden: Springer Fachmedien Wiesbaden, 2019), 239–88, https://doi.org/10.1007/978-3-658-22496-7_7.

⁹ Evan Lieberman and Rorisang Lekalake, "South Africa's Resilient Democracy," *Journal of Democracy*

33, no. 2 (April 2022): 103–17, <https://doi.org/10.1353/jod.2022.0021>.

¹⁰ Adrian Guelke, "South Africa: The Long View on Political Transition," *Nationalism and Ethnic Politics* 15, no. 3–4 (December 17, 2009): 417–35, <https://doi.org/10.1080/13537110903358739>.

¹¹ Alexander Zdanevich, "Features of Socio-Political Processes in the South of the African Continent in a Crisis (1990s – 2020s)," *ISTORIYA* 13, no. 3 (113) (2022), <https://doi.org/10.18254/S207987840020912-2>.

¹² "The End of Apartheid in South Africa," *Strategic Survey* 94, no. 1 (January 1993): 214–23, <https://doi.org/10.1080/04597239308460952>.

¹³ David Ginsburg and Eddie Webster, "South Africa A Negotiated Transition," in *Trade Unions and*

The global community's economic sanctions, diplomatic pressure, and cultural boycotts, along with disinvestment campaigns, weakened South Africa's economy and eroded the apartheid regime's grip on power, creating conditions for change.¹⁴ In addition, the transitions of Indonesia and South Africa from authoritarianism to democracy marked pivotal societal transformations, embodying aspirations for freedom, equality, and self-determination. Indonesia's shift from Suharto's rule in 1998 ushered in political pluralism, with successive elections testing democratic resilience and fostering accountability.¹⁵ Through these electoral processes, Indonesia grappled with complex challenges such as ethnic diversity, regional disparities, and the legacy of authoritarianism, ultimately forging a path toward inclusive and participatory governance.¹⁶

South Africa's transition from apartheid to democracy symbolizes justice and reconciliation, with the 1994 elections and Nelson Mandela's presidency marking a new era of inclusive and equal governance.¹⁷ Subsequent electoral cycles have enabled South Africa to confront its historical legacies, address socio-economic disparities, and foster national unity through democratic participation.¹⁸ Indonesia's and South

Africa's transitions represent aspirations for freedom, dignity, and self-governance. They established inclusive governance and resilience to pave the way for a democratic future.¹⁹

Furthermore, despite their democratization strides, Indonesia and South Africa confront persistent challenges in ensuring the integrity of their electoral processes.²⁰ A notable obstacle in this pursuit is the prevalence of election disputes, which arise from myriad factors ranging from administrative oversights to allegations of electoral malpractice.²¹ These disputes represent a formidable threat to the legitimacy of election outcomes and thereby imperil the stability of the democratic framework.²² Election disputes, while not exclusive to either nation, manifest in diverse forms and contexts, often reflecting the unique socio-political landscapes of Indonesia and South Africa.²³ Administrative errors, encompassing issues such as voter registration inaccuracies or logistical shortcomings in polling stations, constitute a recurrent source of contention. Such

Sustainable Democracy in Africa (Routledge, 2019), 111–24, <https://doi.org/10.4324/9780429423406-7>.

¹⁴ Jane Battersby, "Apartheid/Postapartheid," in *International Encyclopedia of Human Geography* (Elsevier, 2020), 169–75, <https://doi.org/10.1016/B978-0-08-102295-5.10159-3>.

¹⁵ Aurel Croissant and Philip Lorenz, "Indonesia: Challenges of Conflict and Consensus in the Era of Reformasi," in *Comparative Politics of Southeast Asia* (Cham: Springer International Publishing, 2018), 71–111, https://doi.org/10.1007/978-3-319-68182-5_4.

¹⁶ Alexei Drugov, "Indonesia: Twenty Years of Reforms," *Восток. Афро-Азиатские Общества: История и Современность*, no. 4 (2018), <https://doi.org/10.31857/S086919080000431-1>.

¹⁷ Marlea Clarke and Carolyn Bassett, "The Struggle for Transformation in South Africa: Unrealised Dreams, Persistent Hopes," *Journal of Contemporary African Studies* 34, no. 2 (April 2, 2016): 183–89, <https://doi.org/10.1080/02589001.2016.1202501>.

¹⁸ Mthuli Ncube, Abebe Shimeles, and Audrey Verdier-Chouchane, "South Africa's Quest for

Inclusive Development," in *International Development* (Oxford University Press, 2014), 697–713, <https://doi.org/10.1093/acprof:oso/9780199671656.003.0042>.

¹⁹ Choiri, Muttaqin, and Farid Ardyansyah. "The Politics of Waqf Practice in Pesantren Kyai Families in Bangkalan Madura, Indonesia." *El-Usrah: Jurnal Hukum Keluarga* 7.1 (2024): 272–293.

²⁰ Alam, Syariful, Sholahuddin Al-Fatih, and Merve Ozkan Borsa. "Islamism and The Challenge of Democratization in Indonesia." *De Jure: Jurnal Hukum Dan Syar'iah* 15.2 (2023): 198–213.

²¹ Suryani, Irma, et al. "Integration of Islamic Law in regional development in Indonesia." *JURIS (Jurnal Ilmiah Syariah)* 22.1 (2023): 1–11.

²² Preye Inokoba and Iyabrade Ikporukpo, "Explaining Election As A Curse To Democracy In Africa: Reflections From Some Selected African Countries," *International Journal of Advanced Research in Global Politics, Governance and Management* 4, no. 1 (February 2, 2023): 136–56, <https://doi.org/10.48028/ijprds/ijargpgm.v4.i1.09>.

²³ Víctor A. Hernández-Huerta, "Disputed Elections in Presidential Democracies: Contexts of Electoral 'Blackmail,'" *The Journal of Politics* 82, no. 1 (January 2020): 89–103, <https://doi.org/10.1086/705599>.

discrepancies can engender doubts regarding the accuracy and fairness of electoral procedures, potentially eroding public confidence in the democratic apparatus.²⁴

Moreover, allegations of voter fraud, whether substantiated or perceived, cast a shadow over the credibility of elections. Instances of ballot tampering, identity theft, or coercion undermine the principle of suffrage, impeding the electorate's ability to express their will freely. In South Africa, historical disparities and ongoing socio-economic inequities may exacerbate vulnerabilities to electoral manipulation, amplifying the significance of robust safeguards against fraud.²⁵ Furthermore, disputes over electoral laws and regulations contribute to the complexity of the electoral landscape. Variations in legal interpretations, evolving societal norms, and political dynamics often create contentious debates surrounding electoral frameworks.²⁶ In Indonesia and South Africa, the interpretation and application of electoral laws are subject to scrutiny, reflecting the broader struggle to reconcile democratic principles with socio-cultural and historical contexts.²⁷

The ramifications of election disputes extend beyond mere procedural irregularities, posing existential challenges to the consolidation of

democratic governance. The erosion of electoral legitimacy undermines the foundational premise of representative democracy, wherein the electoral process serves as the mechanism for the peaceful transfer of power and the expression of popular sovereignty.²⁸ Without credible elections, the social contract between citizens and the state is jeopardized, potentially precipitating political instability and social unrest.²⁹

Concerted efforts must be undertaken to bolster electoral systems' resilience and transparency to mitigate the impact of election disputes. Strengthening institutional capacities, including electoral management bodies and judicial mechanisms, is imperative to address grievances and adjudicate disputes impartially.³⁰ Additionally, enhancing public awareness and civic engagement is essential to foster a culture of electoral accountability and vigilance against malfeasance.³¹

International best practices and peer learning initiatives can offer valuable insights into effective election management and conflict resolution strategies. These practices are developed through years of experience and refinement in various political contexts worldwide. By studying and adopting these strategies, countries can strengthen their electoral systems and enhance their democratic

²⁴ Simon Butt and Fritz Siregar, "Multilayered Oversight: Electoral Administration in Indonesia," *Asian Journal of Comparative Law* 16, no. S1 (December 1, 2021): S121-35, <https://doi.org/10.1017/asjcl.2021.32>.

²⁵ Nicolas Berlinski et al., "The Effects of Unsubstantiated Claims of Voter Fraud on Confidence in Elections," *Journal of Experimental Political Science* 10, no. 1 (June 28, 2023): 34-49, <https://doi.org/10.1017/XPS.2021.18>.

²⁶ Saiful Risky, Sholahuddin Al-Fatih, and Mabarroh Azizah, "Political Configuration of Electoral System Law in Indonesia from State Administration Perspective," *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi*, June 30, 2023, 119-30, <https://doi.org/10.24090/volkgeist.v6i1.7940>.

²⁷ Radian Salman and Rosa Ristawati, "Constitutional Dialogue in the Indonesia Election Law: Tension between the Indonesian Constitutional Court and the Legislature," in *Proceedings of the International Law Conference* (Scitepress - Science and Technology Publications, 2018), 156-62, <https://doi.org/10.5220/0010052701560162>.

²⁸ Hangala Siachiwena and Chris Saunders, "Elections, Legitimacy, and Democratic Consolidation in Southern Africa Lessons from Zambia, Zimbabwe and Malawi," *Journal of African Elections* 20, no. 1 (June 1, 2021): 67-89, <https://doi.org/10.20940/JAE/2021/v20i1a4>.

²⁹ Daniela Donno, Kelly Morrison, and Burcu Savun, "Not All Elections Are Created Equal: Election Quality and Civil Conflict," *The Journal of Politics* 84, no. 1 (January 1, 2022): 134-47, <https://doi.org/10.1086/714778>.

³⁰ Cynthia Akwei, "Mitigating Election Violence and Intimidation: A Political Stakeholder Engagement Approach," *Politics & Policy* 46, no. 3 (July 13, 2018): 472-504, <https://doi.org/10.1111/polp.12256>.

³¹ O'Brien Kaaba and Babatunde Fagbayibo, "Adjudicating Presidential Election Disputes in Africa: The Emerging Challenge of Election Technology," *Southern African Public Law* 36, no. 1 (December 10, 2021), <https://doi.org/10.25159/2522-6800/8092>.

processes.³² One of the key benefits of international best practices is the ability to learn from the successes and failures of other countries. For instance, nations with well-established democratic traditions can provide valuable lessons on maintaining transparency, ensuring fair play, and building robust electoral institutions. Countries like Indonesia and South Africa, which have undergone significant democratic transitions, can particularly benefit from examining the experiences of older democracies and other transitioning nations.

Peer learning initiatives facilitate the exchange of knowledge and expertise among election management bodies. These initiatives often involve workshops, conferences, and study tours where officials and stakeholders can share experiences and discuss challenges. By participating in these programs, election officials from Indonesia and South Africa can gain insights into innovative approaches to voter education, election technology, and mechanisms for preventing electoral fraud.³³

Leveraging comparative experiences through collaborative frameworks can significantly enhance electoral resilience. For example, regional organizations like the African Union (AU) and the Association of Southeast Asian Nations (ASEAN) are crucial in promoting democratic principles and electoral integrity. These organizations often develop guidelines and standards for member countries to follow, fostering a sense of accountability and peer support. Collaborative efforts such as election observation missions, technical assistance programs, and capacity-building initiatives can help countries like Indonesia and South Africa align their electoral practices with international standards.³⁴ Safeguarding the integrity of

democratic processes requires a sustained commitment to democratic norms. This involves upholding principles such as the rule of law, respect for human rights, and inclusiveness. Indonesia and South Africa's commitment must be reflected in their legal frameworks, institutional practices, and political culture. Ensuring that electoral laws are clear, comprehensive, and consistently enforced is essential for maintaining public trust in the electoral system.³⁵

Proactive measures to address underlying socio-political challenges are also crucial for advancing democratic consolidation. In many countries, political corruption, socioeconomic inequality, and ethnic tensions can undermine electoral processes and erode democratic gains. Addressing these challenges requires a multifaceted approach that includes policy reforms, social programs, and dialogue among various stakeholders.³⁶ In Indonesia, for instance, efforts to improve electoral management have been accompanied by initiatives to strengthen anti-corruption measures and promote political accountability. Similarly, in South Africa, addressing the legacies of apartheid through policies aimed at reducing inequality and promoting social cohesion has been a priority alongside electoral reforms. Building electoral resilience also involves fostering a culture of political tolerance and civic engagement. Encouraging citizen participation in the electoral process, whether through voting, advocacy, or monitoring, can help ensure that elections reflect the people's will. Education and awareness campaigns can empower citizens to make informed choices and hold political leaders

³² Herman J. Cohen, Timothy D. Sisk, and Andrew Reynolds, "Elections and Conflict Management in Africa," *African Studies Review* 42, no. 2 (September 1999): 162, <https://doi.org/10.2307/525375>.

³³ Pippa Norris, *Strengthening Electoral Integrity* (Cambridge University Press, 2017), <https://doi.org/10.1017/9781107280656>.

³⁴ Ricky Hasibuan, "Indonesian Electoral Democracy: Between Pancasila and the Global Perspective," *Indonesian Journal of Pancasila and Global*

Constitutionalism 3, no. 1 (January 31, 2024), <https://doi.org/10.15294/ijpgc.v3i1.78910>.

³⁵ J. Elklit and A. Reynolds, "The Impact of Election Administration on the Legitimacy of Emerging Democracies: A New Comparative Politics Research Agenda," *Commonwealth & Comparative Politics* 40, no. 2 (July 2002): 86-119, <https://doi.org/10.1080/713999584>.

³⁶ Nicholas Matatu, *Protecting Electoral Integrity: The Case of South Africa* (International Institute for Democracy and Electoral Assistance (International IDEA), 2023), <https://doi.org/10.31752/idea.23.88>.

accountable.³⁷ Furthermore, international best practices and peer learning initiatives are invaluable tools for enhancing electoral resilience and safeguarding democratic processes. By leveraging comparative experiences and fostering collaboration, countries like Indonesia and South Africa can navigate the complexities of electoral governance and advance their democratic consolidation. A sustained commitment to democratic norms and proactive measures to address socio-political challenges are essential to this process. Through continuous learning and adaptation, these countries can build stronger, more resilient democracies.³⁸

Election disputes present a formidable challenge to the integrity and stability of democratic governance, particularly in emerging democracies like Indonesia and South Africa. Despite their progress toward democratization, both countries continue to grapple with issues related to election disputes that can undermine the legitimacy of electoral outcomes and erode public trust in the democratic process. Understanding these challenges requires a nuanced exploration of the factors contributing to election disputes and the mechanisms employed for their resolution.³⁹ Election disputes in emerging democracies are often rooted in a variety of factors. Administrative errors, such as mistakes in voter registration or ballot counting, can lead to significant contention. These errors might result from inadequate training of election officials, insufficient resources, or lack of standardized procedures. Additionally, voter

fraud, including practices like ballot stuffing or vote buying, further complicates the electoral landscape. Such fraudulent activities not only skew election results but also diminish public confidence in the fairness of the electoral process.⁴⁰ Disputes over electoral laws and regulations also contribute to the complexity. Conflicting interpretations of legal provisions or ambiguities in the law can create opportunities for disputes, particularly if stakeholders perceive the rules as being manipulated for partisan gain.

Resolving election disputes is crucial for maintaining democratic integrity and political stability in Indonesia and South Africa. Both countries have established mechanisms to address these disputes, but their effectiveness and robustness vary, reflecting their unique political and legal contexts. In Indonesia, the Constitutional Court primarily manages the mechanism for resolving election disputes (Mahkamah Konstitusi).⁴¹ This institution is responsible for adjudicating disputes related to legislative and presidential elections. The Constitutional Court's role is pivotal in ensuring that electoral disputes are addressed impartially and by the law. However, concerns over its independence and potential political influences sometimes challenge the court's effectiveness. Indonesia's electoral landscape's rapid growth and complexity also significantly burden the court's resources, potentially impacting its capacity to handle disputes efficiently. South Africa, on the other hand, relies on the Electoral Court for resolving election disputes.⁴² This court operates within a framework established by the Electoral Commission of South Africa (IEC), which oversees elections. The Electoral Court is tasked with adjudicating disputes arising from

³⁷ John Maphephe, Rishidaw Balkaran, and Surendra Thakur, "Southern African Region Leading the Way in Election Technology: 2009–2019 Review of Global Standards and Unanswered Questions," *Journal of Law, Society and Development* 6, no. 1 (March 12, 2020), <https://doi.org/10.25159/2520-9515/4084>.

³⁸ Janvencius Valerius Nifowa'azaro Dachi, Rina Shahriyani Shahrullah, and Elza Syarief, "Reviewing The Constitutional Rights on Democratic Election Practices in Indonesia And The Philippines," *Justitia et Pax* 39, no.1(April 16, 2024):1–53 <https://doi.org/10.24002/jep.v39i1.6229>

³⁹ Oce Madril, "The Authority of Administrative Court in Settling The Disputes Over Election Process In Indonesia," *Yustisia Jurnal Hukum* 8, No. 3 (February 2, 2020): 365, <https://doi.org/10.20961/yustisia.v8i3.35553>.

⁴⁰ Simon Butt, *The Constitutional Court and Democracy in Indonesia* (Brill | Nijhoff, 2015), <https://doi.org/10.1163/9789004250598>.

⁴¹ Akhmad Zaki Yamani, Sunardi Sunardi, and Hanafi Arief, "Juridical Review of Elections Dispute Settlement in Indonesia," *International Journal of Law, Environment, and Natural Resources* 4, no. 1 (April 18, 2024): 29–40, <https://doi.org/10.51749/injurlens.v4i1.52>.

⁴² Lydia A. Nkansah, "Dispute Resolution and Electoral Justice in Africa: The Way Forward," *SSRN Electronic Journal*, 2015, <https://doi.org/10.2139/ssrn.2788394>.

the electoral process, including challenges to the results of national and local elections. Its effectiveness is generally supported by its clear legal mandate and relatively robust institutional framework. Nonetheless, the Electoral Court faces challenges in ensuring timely and transparent resolutions and addressing perceptions of bias or procedural unfairness.⁴³

The existing literature on the mechanisms for settling election disputes in Indonesia and South Africa provides valuable insights but lacks a comprehensive comparative analysis. Individual studies have examined each country's electoral governance challenges, highlighting procedural inefficiencies, resource constraints, and political pressures. However, a systematic comparison of dispute settlement mechanisms' effectiveness, strengths, and weaknesses in these two contexts is relatively sparse.⁴⁴

A comparative analysis could reveal critical lessons and best practices for managing election disputes in emerging democracies. Such an analysis would examine how each mechanism addresses procedural fairness, transparency, and timeliness issues. It would also be beneficial to assess how these mechanisms handle the diverse range of disputes, from administrative errors to allegations of fraud. Understanding the nuances of each country's approach can offer valuable insights into how emerging democracies can enhance their electoral systems and build greater public trust.⁴⁵ In summary, while Indonesia and South Africa have made significant strides in their democratization processes, they continue to face challenges related to election disputes. The

effectiveness of the mechanisms for settling these disputes is crucial for maintaining electoral integrity and political stability. A more in-depth and comparative examination of these mechanisms could provide important lessons for improving dispute-resolution processes in emerging democracies, ultimately strengthening the foundations of democratic governance.

Understanding the similarities and differences in the approaches adopted by Indonesia and South Africa towards resolving election disputes is essential for identifying best practices, informing policy interventions, and enhancing the resilience of democratic institutions. Against this backdrop, the primary objective of this research is to conduct a comparative analysis of the mechanisms utilized to settle election disputes in Indonesia and South Africa. Specifically, the study aims to identify and examine the legal and institutional frameworks governing the resolution of election disputes in Indonesia and South Africa. Next, the judicial and non-judicial mechanisms employed to settle election disputes in both countries are compared. Furthermore, these mechanisms' effectiveness, efficiency, and transparency in ensuring the integrity and legitimacy of electoral outcomes are widely evaluated. Ultimately, the challenges and best practices associated with settling election disputes in Indonesia and South Africa are explored.

Method

This research adopts a comparative qualitative approach to examine the mechanisms for settling election disputes in Indonesia and South Africa, focusing on transparency, accountability, effectiveness, and efficiency. The study utilizes a combination of primary and secondary data sources to ensure a comprehensive understanding of the dispute resolution frameworks in both countries. Primary data were obtained through interviews with key stakeholders, including officials from Indonesia's Bawaslu (Elections Supervisory Body), South Africa's IEC (Independent Electoral Commission), and civil society organizations involved in electoral processes. Secondary data included legislative documents, reports from

⁴³ Eny Kusadarini, Anang Priyanto, and Sri Hartini, "The Process and Role of the Judiciary in Election Administration Dispute Resolution in Indonesia," *Jurnal Civics: Media Kajian Kewarganegaraan* 18, no. 2 (October 31, 2021): 334–44, <https://doi.org/10.21831/jc.v18i2.44175>.

⁴⁴ J Shola Omotola, "Mechanisms of Post-Election Conflict Resolution in Africa's 'New' Democracies," *African Security Review* 19, no. 2 (June 2010): 2–13, <https://doi.org/10.1080/10246029.2010.503053>.

⁴⁵ Priyatna Abdurrasyid, "State Sovereignty in Airspace," *Indonesian Journal of International Law* 6, no. 4 (July 31, 2009), <https://doi.org/10.17304/ijil.vol6.4.215>.

election observers, academic articles, and case law related to election disputes.

To analyze the effectiveness and inclusiveness of these mechanisms, the study applied thematic analysis, identifying key factors such as public scrutiny, the enforceability of decisions, and the timeliness of dispute resolution processes. The study also employed a comparative framework to systematically contrast Indonesia and South Africa's practices, highlighting common challenges and context-specific solutions. Specific attention was given to how political interference, resource constraints, and procedural complexities affect the legitimacy of the dispute resolution process in both nations.

The research further integrated best practices from both contexts to formulate policy recommendations. By evaluating the roles of civil society, the adoption of technology, and the simplification of procedures, the study sought to identify actionable strategies for improving electoral dispute mechanisms. This methodological approach ensures a balanced analysis that identifies weaknesses and provides constructive pathways to strengthen democratic governance in emerging democracies.

Results and Discussion

The research will be structured as follows: following this introduction, the next section will provide an overview of the legal and institutional frameworks governing resolving election disputes in Indonesia and South Africa. Subsequent sections will delve into the comparative analysis of judicial and non-judicial mechanisms for settling election disputes and then evaluate their effectiveness and challenges. The research will conclude by discussing the findings, implications, and recommendations for enhancing the settlement of election disputes in Indonesia, South Africa, and beyond.

1. Legal and Institutional Frameworks

Indonesia and South Africa have established comprehensive legal and institutional frameworks to ensure the integrity of their electoral processes. In Indonesia, the Constitution of 1945, Law No. 7 of 2017 on General Elections, and the Constitutional Court Law guide the electoral process, supported by institutions like the General Elections

Commission (KPU), the Election Supervisory Board (Bawaslu), and the Constitutional Court (MK). These institutions ensure compliance with legal standards, address violations, and resolve disputes. Despite these efforts, challenges like resource limitations and enforcement issues persist, particularly for Bawaslu, which is critical in handling administrative complaints and upholding electoral quality.⁴⁶

South Africa's Independent Electoral Commission (IEC), established by the 1996 Constitution and supported by key electoral acts, is pivotal in safeguarding free and fair elections. The IEC has faced challenges such as maintaining legitimacy and addressing voter data issues but has demonstrated resilience during crises like the COVID-19 pandemic. The IEC oversees administrative complaints and refers severe violations to the judiciary, with final oversight by the Electoral and Constitutional courts. The independence of the IEC is crucial for maintaining public trust, though occasional controversies highlight the need for ongoing accountability.⁴⁷

Both countries emphasize the independence and impartiality of their electoral management bodies to sustain public trust and uphold democratic values. Indonesia's structured legal framework ensures detailed processes for resolving electoral disputes, while South Africa's flexible, multi-tiered judicial approach broadens its coverage of electoral issues. Both nations leverage collaboration among stakeholders, including electoral bodies, civil society, the judiciary, and the media, to maintain free and credible elections. However, further research is essential to enhance the effectiveness of these mechanisms in preserving electoral integrity.⁴⁸

⁴⁶ Syailendra Anantya Prawira, "Election Violation and Election Law Enforcement in General Election in Indonesia," *Jurnal Hukum Volkgeist* 4, no. 1 (December 8, 2019): 25-34, <https://doi.org/10.35326/volkgeist.v4i1.424>.

⁴⁷ Iin Suny Atmadja, "Peranan Mahkamah Konstitusi (MK) Dalam Pemilu Serentak Tahun 2019," *Nuansa Akademik: Jurnal Pembangunan Masyarakat* 6, no. 1 (April 29, 2021): 1-10, <https://doi.org/10.47200/jnajpm.v6i1.685>.

⁴⁸ Mcebisi Ndletyana, "The IEC and the 2014 Elections: A Mark of Institutional Maturity?,"

The chart, as presented in Figure 1, compares the electoral frameworks of Indonesia and South Africa across five key dimensions: Legal Framework, Electoral Bodies, Judiciary Role, Dispute Mechanism, and Challenges. Both countries demonstrate robust structures for ensuring electoral integrity, with South Africa scoring slightly higher in the Judiciary Role due to its multi-tiered judicial approach and strong oversight of electoral disputes. On the other hand, Indonesia excels in its legal framework, supported by detailed electoral laws such as the 1945 Constitution and Law No. 7 of 2017. However, both nations face challenges in addressing violations and ensuring resource adequacy, reflected in the lower scores for Challenges. The chart highlights the collaborative efforts of electoral bodies and the judiciary to maintain democratic values in both countries. However, further measures are needed to strengthen public trust and address persistent issues.

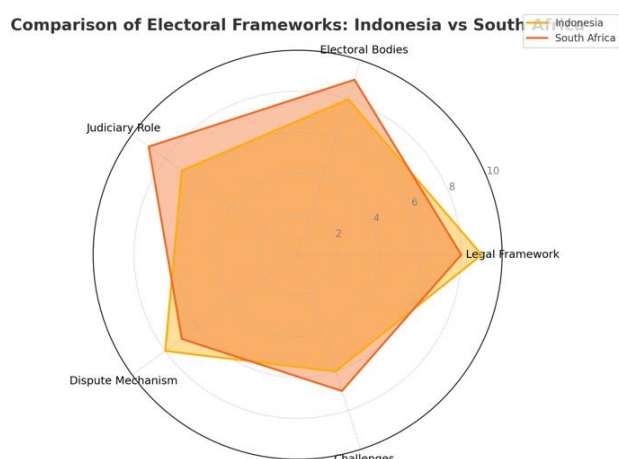


Figure 1. Radar Chart Comparing Electoral Frameworks: Indonesia vs South Africa

2. Judicial Mechanisms

The Indonesian Constitutional Court (MK) is pivotal in resolving election disputes with its exclusive jurisdiction and final, binding decisions. However, its approach to judicial review, particularly in economic and social rights cases, is inconsistent, raising concerns about legal clarity. While the MK's authority ensures stability and legitimacy in electoral

outcomes, ongoing evaluations are needed to address potential conflicts with other judicial institutions and enhance the dispute-resolution process.⁴⁹

In South Africa, a multi-tiered judicial system, led by the Electoral Court and supported by the High Courts and Constitutional Court, effectively manages election disputes. These courts uphold constitutional principles and human rights while fostering socio-economic justice. Despite some limitations in addressing jurisdictional issues, the Constitutional Court remains central to advancing social change and ensuring fair electoral processes. The independence of these bodies is critical to their effectiveness.⁵⁰

Indonesia's legal framework for election disputes involves institutions like the State Administrative Court (PTUN) and the Election Supervisory Board. However, challenges such as procedural rigidity and high costs highlight the need for reforms, including a specialized General Election Court. In contrast, South Africa's judicialization of disputes often serves as a strategy for opposition parties and is bolstered by regional and continental courts. Both countries emphasize independence and impartiality as essential to preventing electoral violence and ensuring peaceful transitions.⁵¹

The bar chart, as presented in Figure 2, provides a comparative analysis of judicial approaches to election disputes in Indonesia and South Africa across five key dimensions: Exclusive Jurisdiction, Judicial Review Consistency, Dispute Mechanism Effectiveness, Independence of Bodies, and Use of Precedent. Indonesia scores higher in Exclusive Jurisdiction and Use of Precedent, reflecting its centralized and

⁴⁹ Andy Omara, "Interpreting The Indonesian Constitutional Court Approach in Conducting Judicial Review on Cases Related to Economic And Social Rights," *Indonesia Law Review* 7, No. 2 (August 31, 2017).

⁵⁰ Hoolo Nyane And Mogale Malapane, "The Role Of The Courts In The Public Policy Domain In South Africa," *Obiter* 43, No. 4 (January 6, 2023), <https://doi.org/10.17159/Obiter.V43i4.13208>.

⁵¹ Madril, "The Authority Of Administrative Court In Settling The Disputes Over Election Process In Indonesia."

precedent-driven approach to electoral dispute resolution. On the other hand, South Africa demonstrates strengths in Judicial Review Consistency and Independence of Bodies, showcasing its multi-tiered and autonomous system that ensures impartiality and adaptability. Both countries exhibit comparable scores in Dispute Mechanism Effectiveness, highlighting ongoing challenges in providing fair and timely resolutions. Overall, the chart underscores how differences in judicial structures and processes influence the effectiveness of electoral justice in both nations.

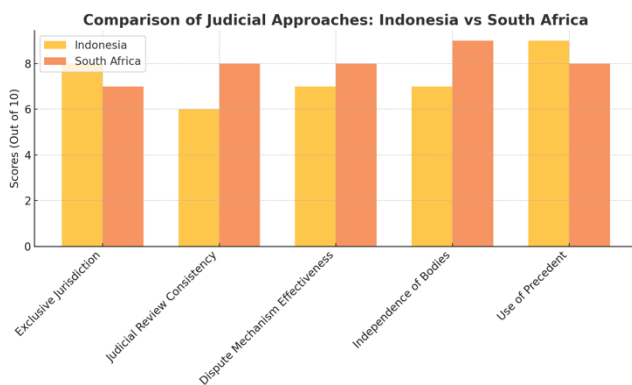


Figure 2. Judicial Approaches to Election Disputes: A Comparison of Indonesia and South Africa.

3. Non-Judicial Mechanisms

In Indonesia, non-judicial mechanisms for resolving election disputes complement formal judicial processes. The Election Supervisory Board (Bawaslu) is a key institution with the authority to handle administrative violations and mediate conflicts between election participants.⁵² Bawaslu's processes include investigating complaints, conducting hearings, and issuing recommendations for corrective actions. Mediation facilitated by Bawaslu aims to provide a swift and less adversarial means of resolving disputes, thereby reducing the burden on the

judiciary and ensuring that minor issues are addressed promptly.⁵³

Furthermore, Bawaslu's accessibility is enhanced by its presence at national, provincial, and district levels, making it easier for individuals and parties nationwide to lodge complaints and seek resolution. The effectiveness of Bawaslu's mediation efforts is reflected in its ability to resolve many disputes through consensus and mutual agreement, thus preventing escalation to the courts. However, the legitimacy of these mechanisms depends heavily on Bawaslu's perceived impartiality and adherence to legal standards, which it maintains through transparent procedures and adherence to the legal framework governing elections.⁵⁴ Non-judicial mechanisms in Indonesia, particularly those involving the Election Supervisory Board (Bawaslu), are vital in resolving election disputes alongside formal judicial processes. Bawaslu's authority encompasses addressing administrative violations and mediating conflicts among election participants. Through complaint investigations, hearings, and recommendations for corrective actions, Bawaslu aims to swiftly and amicably resolve disputes, thereby alleviating the burden on the judiciary and promptly addressing minor issues.⁵⁵

Meanwhile, the Independent Electoral Commission (IEC) also employs non-judicial mechanisms to handle election-related disputes in South Africa. The IEC provides for internal dispute resolution processes that include

⁵² Erniyanti Erniyanti, "Analysis of Inhibiting Factors for Resolving Election Disputes Within the Authority of the Election Supervisory Board (Bawaslu)," *Open Access Indonesia Journal of Social Sciences* 6, no. 3 (February 7, 2024): 1010-14, <https://doi.org/10.37275/oaijs.v6i3.228>.

⁵³ Muhammad Febriansyah, Muhamad Takiyuddin Ismail, and Norazam Mohd Noor, "Competing Not Complementing: KPU, Bawaslu, and the Dynamic of Election Monitoring in PEMILU 2019," *Asian Journal of Political Science* 28, no. 3 (September 1, 2020): 275-93, <https://doi.org/10.1080/02185377.2020.1781670>.

⁵⁴ Dina Puji Wahyuni and Shruti Bedi, "How the General Election Supervisory Agency Resolving the Election Disputes?," *Indonesian State Law Review (ISLRev)* 6, no. 1 (June 1, 2023), <https://doi.org/10.15294/islrev.v6i1.68228>.

⁵⁵ Susilawati Muharram, Nikmatullah Nur, and Alamsyah Agit, "Legal Position of BAWASLU in Monitoring and Preventing Money Politics Practice in Election Process," *Formosa Journal of Applied Sciences* 2, no. 7 (July 15, 2023): 1589-1560, <https://doi.org/10.55927/fjas.v2i7.5051>.

mediation and arbitration. These processes are designed to be accessible, enabling parties to address grievances quickly and efficiently without resorting to formal litigation. The IEC's dispute resolution mechanisms are particularly effective during the electoral process, helping to resolve conflicts that might arise during campaign periods or immediately after elections.⁵⁶ Comparatively, Indonesia and South Africa recognize the importance of non-judicial mechanisms in the election dispute resolution process. These mechanisms are designed to be more accessible and less formal than judicial proceedings, providing quicker resolutions that can help maintain the integrity and smooth functioning of the electoral process. Mediation and arbitration offer less adversarial alternatives that can preserve relationships between electoral participants and reduce the caseload on the judiciary.⁵⁷ However, the effectiveness and legitimacy of these non-judicial mechanisms are contingent upon the perceived impartiality and independence of the institutions implementing them.

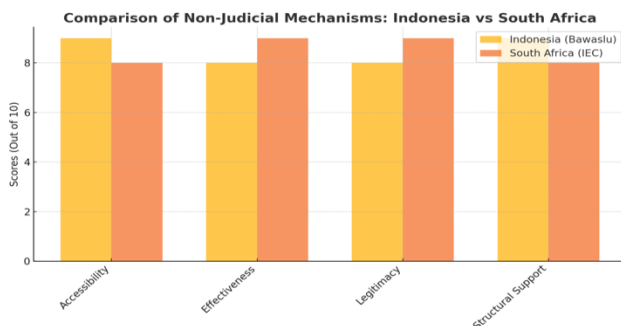


Figure 3. Comparison of Non-Judicial Mechanisms for Election Dispute Resolution: Indonesia vs South Africa

The bar chart, as presented in Figure 3, highlights the comparative performance of non-judicial mechanisms in election dispute

resolution in Indonesia (Bawaslu) and South Africa (IEC) across four key dimensions: Accessibility, Effectiveness, Legitimacy, and Structural Support. Both countries excel in ensuring that their mechanisms are accessible and well-supported. Still, Indonesia edges ahead in Accessibility and Structural Support due to Bawaslu's extensive multi-tiered presence at the national, provincial, and district levels. This allows for more straightforward lodging of complaints and resolutions at the grassroots. On the other hand, South Africa's IEC performs slightly better in Effectiveness and Legitimacy, attributed to its strong reputation for independence and fairness in resolving disputes. These non-judicial mechanisms help reduce the burden on formal judicial systems and foster swift resolutions. The chart underscores the significance of maintaining impartiality and robust institutional frameworks in ensuring the success of non-judicial mechanisms. Both countries demonstrate a balance of strengths that contribute to the overall integrity of their electoral processes.

4. Transparency and Accountability

The effectiveness and efficiency of election dispute mechanisms are crucial in maintaining the integrity of electoral outcomes in Indonesia and South Africa. Timely resolution prevents prolonged uncertainty and unrest, ensuring the electoral process proceeds smoothly. In Indonesia, Bawaslu and judicial bodies are tasked with resolving disputes within strict timelines to avoid disruptions and maintain public trust. Similarly, South Africa's IEC and judicial mechanisms prioritize resolving disputes quickly to uphold electoral integrity and voter confidence.⁵⁸

Another critical aspect is the enforceability of decisions. It is not enough for disputes to be resolved quickly; decisions must also be adhered to by all parties. In Indonesia, ensuring compliance with Bawaslu's rulings is essential for electoral fairness, though resistance to

⁵⁶ Pedzisai Sixpence, Alouis Chilunjika, and Emmanuel Sakarombe, "Options for Post-Election Conflict Resolution in Africa," *International Journal of Law and Public Policy* 3, no. 1 (March 11, 2021): 49–59, <https://doi.org/10.36079/lamintang.ijlapp-0301.186>.

⁵⁷ Kelvin Kamande, "The Role of Alternative Electoral Dispute Resolution in Solving Electorate Disputes: A Case Study of Electoral Justice in Kenya," *SSRN Electronic Journal*, 2021, <https://doi.org/10.2139/ssrn.3841668>.

⁵⁸ Jamaluddin Jamaluddin, "The Settlement of Election Disputes By Bawaslu Reviewed from The Indonesian Justice System," *Interdisciplinary Social Studies* 2, No. 2 (February 20, 2022): 521–31, <https://doi.org/10.55324/Iss.V2i2.121>.

implementation remains a challenge. In South Africa, the IEC must enforce its decisions effectively to sustain the credibility of the electoral system, contributing to its overall legitimacy and ensuring justice is visible and respected.⁵⁹

Effective dispute-resolution mechanisms significantly impact electoral integrity and public perception. In Indonesia, timely resolutions reduce post-election conflicts and enhance political stability. South Africa's IEC ensures fairness and transparency in elections, bolstering public confidence. Transparent and efficient resolution mechanisms reassure voters and candidates, reinforcing their trust in the legitimacy of electoral outcomes, which is critical for stability and democratic governance.⁶⁰ The IEC's ability to address disputes promptly helps prevent delays in the electoral process, ensuring a smooth democratic transition.

5. Effectiveness and Efficiency

Evaluating the effectiveness and efficiency of mechanisms for settling election disputes involves several key considerations. First, the timeliness of dispute resolution is critical. Effective mechanisms must resolve disputes promptly to maintain public confidence in the electoral process.⁶¹ Delays can undermine the perceived legitimacy of elections and create uncertainty. In assessing both countries, it's essential to examine how quickly disputes are addressed and whether there are established timelines that ensure swift resolution. Comparing the speed of dispute handling can

reveal much about each system's responsiveness to electoral challenges.⁶²

Second, the enforceability of decisions is another crucial factor. Effective dispute-resolution mechanisms must ensure that their decisions are implemented fully and promptly. This involves evaluating whether the bodies responsible for resolving disputes have the authority and resources to enforce their rulings.⁶³ In some systems, decisions may be rendered but not effectively enforced, leading to ongoing disputes and a lack of resolution. Thus, understanding the enforcement mechanisms and their effectiveness is key to assessing the overall robustness of election dispute resolution processes.⁶⁴

Finally, the effectiveness and efficiency of these mechanisms can also be gauged by their ability to handle various types of disputes. This involves considering the scope of the mechanisms—whether they can address both minor procedural issues and significant allegations of fraud or misconduct. ⁶⁵A comprehensive dispute resolution system should be versatile enough to manage the various problems, ensuring that all electoral disputes are addressed adequately. By evaluating these aspects, one can better understand how each

⁵⁹ Jay Krehbiel, "Elections, Public Awareness, and the Efficacy of Constitutional Review," *Journal of Law and Courts* 7, no. 1 (October 21, 2019): 53–79, <https://doi.org/10.1086/699241>.

⁶⁰ Herdi Munte and . Yulindri, "Legal Pluralism in Dispute Resolution on Election Justice," in *Proceedings of the International Conference on Culture Heritage, Education, Sustainable Tourism, and Innovation Technologies* (SCITEPRESS - Science and Technology Publications, 2020), 22–27, <https://doi.org/10.5220/0010294100220027>.

⁶¹ O.V. Skochylas-Pavliv, "Analysis of Mechanisms for Appealing against Decisions, Actions or Inactions Related to the Electoral Process in Ukraine," *Analytical and Comparative Jurisprudence*, no. 4 (April 28, 2022): 195–201, <https://doi.org/10.24144/2788-6018.2021.04.34>.

⁶² Hilary A. A. Miezah, "Control and Security Mechanisms," in *Elections in African Developing Democracies* (Cham: Springer International Publishing, 2018), 151–60, https://doi.org/10.1007/978-3-319-53706-1_8.

⁶³ Cornelia Furculita, "Ensuring That State to State Dispute Settlement Procedures under EU FTAs Do Not End When They Have Just Begun," *SSRN Electronic Journal*, 2020, <https://doi.org/10.2139/ssrn.3686467>.

⁶⁴ Bahari Bahari, Laode Bariun, and Winner Agustinus Siregar, "The Effectiveness of Election Administrative Law Enforcement by the General Election Supervisory Agency," *Al-'Adl* 14, no. 2 (July 31, 2021): 198, <https://doi.org/10.31332/aladl.v14i2.2842>.

⁶⁵ George Hikah Benson, "Electoral Dispute Resolution in Ghana since 1992: An Assessment of the Role of the Judiciary Arm of State," *Journal of Advanced Research in Social Sciences* 5, no. 4 (October 30, 2022): 35–64, <https://doi.org/10.33422/jarss.v5i4.616>.

country's mechanisms contribute to the integrity and legitimacy of their electoral processes.⁶⁶

6. Challenges and Best Practices

In Indonesia and South Africa, the settlement of election disputes faces several common challenges that threaten the integrity and credibility of the electoral process. One significant challenge is political interference, where powerful political actors attempt to influence the outcomes of electoral dispute resolution.⁶⁷ Political interference can manifest in Indonesia through pressure on the Electoral Supervisory Board (Bawaslu) and the judiciary, potentially compromising their impartiality. Similarly, in South Africa, the Independent Electoral Commission (IEC) and associated judicial bodies must navigate the influence of entrenched political interests that may seek to sway decisions in their favor. Combating political interference requires robust institutional independence and legal safeguards to ensure impartial adjudication of disputes.⁶⁸

Resource constraints are another prevalent challenge affecting the effectiveness and efficiency of election dispute resolution mechanisms. In Indonesia, limited financial and human resources can hinder Bawaslu's ability to thoroughly investigate and resolve disputes promptly. This can lead to delays and backlogs, eroding public confidence in the dispute

resolution process.⁶⁹ South Africa faces similar issues. The IEC often operates with constrained budgets and staffing limitations, which impact its capacity to manage disputes efficiently. Addressing resource constraints involves securing adequate funding, training, and support for electoral bodies to perform their functions effectively.⁷⁰

Procedural complexities also pose a significant challenge in settling election disputes. The legal and procedural frameworks governing electoral disputes can be intricate and challenging for complainants and adjudicators. In Indonesia, complex procedures and bureaucratic hurdles can deter individuals from pursuing legitimate grievances, leading to unresolved disputes and potential unrest.⁷¹ In South Africa, the procedural requirements for filing and adjudicating disputes can be cumbersome, sometimes creating barriers to timely and effective resolution. Simplifying procedures, providing clear guidelines, and ensuring accessibility are crucial steps in overcoming these complexities and enhancing the dispute resolution process.⁷²

Conclusion

Examining the mechanisms for settling election disputes in Indonesia and South Africa reveals that both nations face significant challenges in

⁶⁶ Pippa Norris, Richard W. Frank, and Ferran Martínez i Coma, "Assessing the Quality of Elections," *Journal of Democracy* 24, no. 4 (October 2013): 124-35, <https://doi.org/10.1353/jod.2013.0063>.

⁶⁷ Trésor Muhindo Makunya, "Overcoming Challenges to the Adjudication of Election-Related Disputes at the African Commission on Human and Peoples' Rights: Perspectives from the Ngandu Case," *African Human Rights Law Journal* 22, no. 2 (January 25, 2023): 1-24, <https://doi.org/10.17159/1996-2096/2022/v22n2a3>.

⁶⁸ Tri Sulistyowati and Zulkifli Aspan, "Assessing the Indonesian General Election 2019: Election and Human Rights Relations," in *Proceedings of the 1st International Conference on Science and Technology in Administration and Management Information, ICSTAMI 2019, 17-18 July 2019, Jakarta, Indonesia* (EAI, 2021), <https://doi.org/10.4108/eai.17-7-2019.2303522>.

⁶⁹ Weldon Kipngeno Ngetich, "Factors Affecting Project Management Capacity Among Electoral Work Force in Kenya," *Reviewed Journal International Of Business Management [Issn 2663-127x]* 1, No. 1 (January 9, 2019): 66-81, <https://doi.org/10.61426/Business.V1i1.5>.

⁷⁰ Anwar Cengkeng Angelo Emanuel, Flavio Seac, "Construction of The Election Supervisory Agency As an Effective Election Law Enforcement Agency," *Nomoi Law Review* 3, No. 1 (May 10, 2022), <https://doi.org/10.30596/Nomoi.V3i1.9437>.

⁷¹ O'Brien Kaaba, "The Challenges of Adjudicating Presidential Election Disputes In Domestic Courts in Africa," *African Human Rights Law Journal* 15, No. 2 (2015): 329-54, <https://doi.org/10.17159/1996-2096/2015/V15n2a5>.

⁷² Kaaba And Fagbayibo, "Adjudicating Presidential Election Disputes in Africa: The Emerging Challenge of Election Technology."

ensuring transparent, accountable, effective, and efficient dispute-resolution processes. Despite their progress in democratization, these challenges, if unaddressed, threaten the legitimacy of electoral outcomes and the stability of their democratic institutions.

Transparency and accountability are foundational to the credibility of electoral dispute mechanisms. In Indonesia and South Africa, the legal frameworks and institutional structures aim to provide a transparent process where the public can scrutinize electoral disputes. Bodies like Indonesia's Bawaslu and South Africa's IEC are central to these efforts, striving to publish decisions and engage stakeholders in the electoral process. However, achieving complete transparency remains challenging, particularly ensuring that all electoral management and judiciary levels are consistently open and accountable. Inclusiveness in these processes, involving civil society and various political actors, is crucial to building trust and legitimacy.

Furthermore, the effectiveness and efficiency of these mechanisms are equally critical. Timely resolution of disputes ensures that electoral processes are not unduly disrupted and that political stability is maintained. Both countries have set timelines for dispute resolution to prevent prolonged uncertainty. The enforceability of decisions further strengthens the process, as it ensures that outcomes are respected and adhered to by all parties involved. In Indonesia, Bawaslu's decisions need to be enforced uniformly to maintain order, while in South Africa, the IEC's rulings must be implemented effectively to preserve electoral integrity. Efficient dispute resolution resolves conflicts swiftly and reinforces public trust in the democratic system.

In addition, despite these efforts, common challenges persist. Political interference can undermine the impartiality of electoral bodies, while resource constraints limit their capacity to manage disputes effectively. Procedural complexities add another layer of difficulty, often deterring legitimate grievances from being pursued. However, several best practices have emerged. Strengthening the independence of

electoral bodies, securing adequate resources, simplifying procedural frameworks, and leveraging civil society's role in monitoring and advocacy can significantly enhance dispute resolution processes. International collaboration and technology adoption can also streamline procedures and improve transparency and efficiency.

Finally, to safeguard the integrity of electoral processes, Indonesia and South Africa must continue to address these challenges head-on. Strengthening institutional capacities, ensuring robust legal frameworks, and fostering a culture of transparency and accountability are essential steps. Engaging civil society and adopting best practices from global experiences can further enhance the effectiveness of dispute resolution mechanisms. By doing so, both countries can uphold the principles of free, fair, and credible elections, thereby reinforcing the foundations of their democratic governance.

Bibliography

- Abdurasyid, Priyatna. "State Sovereignty In Airspace." *Indonesian Journal Of International Law* 6, No. 4 (July 31, 2009).
- Akwei, Cynthia. "Mitigating Election Violence And Intimidation: A Political Stakeholder Engagement Approach." *Politics & Policy* 46, No. 3 (July 13, 2018): 472-504.
- Alam, Syariful, Sholahuddin Al-Fatih, and Merve Ozkan Borsa. "Islamism and The Challenge of Democratization in Indonesia." *De Jure: Jurnal Hukum Dan Syar'iah* 15.2 (2023): 198-213.
- Angelo Emanuel, Flavio Seac, & Anwar Cengkeng. "Construction Of The Election Supervisory Agency As An Effective Election Law Enforcement Agency." *Nomoi Law Review* 3, No. 1 (May 10, 2022).
- Anwar, Dewi Fortuna. "Indonesia's Contributions To Peaceful Change In International Affairs." In *The Oxford Handbook Of Peaceful Change In International Relations*, 551-66. Oxford University Press, 2020.
- Atmadja, Iin Suny. "Peranan Mahkamah Konstitusi (Mk) Dalam Pemilu Serentak Tahun 2019." Nuansa Akademik: Jurnal

- Pembangunan Masyarakat 6, No. 1 (April 29, 2021): 1–10.
- Bahari, Bahari, Laode Bariun, And Winner Agustinus Siregar. "The Effectiveness Of Election Administrative Law Enforcement By The General Election Supervisory Agency." *Al-'Adl* 14, No. 2 (July 31, 2021): 198.
- Battersby, Jane. "Apartheid/Postapartheid." In *International Encyclopedia Of Human Geography*, 169–75. Elsevier, 2020.
- Benson, George Hikah. "Electoral Dispute Resolution In Ghana Since 1992: An Assessment Of The Role Of The Judiciary Arm Of State." *Journal Of Advanced Research In Social Sciences* 5, No. 4 (October 30, 2022): 35–64.
- Berlinski, Nicolas, Margaret Doyle, Andrew M. Guess, Gabrielle Levy, Benjamin Lyons, Jacob M. Montgomery, Brendan Nyhan, And Jason Reifler. "The Effects Of Unsubstantiated Claims Of Voter Fraud On Confidence In Elections." *Journal Of Experimental Political Science* 10, No. 1 (June 28, 2023): 34–49.
- Bungenberg, Marc, And August Reinisch. "Recognition And Enforcement Of Decisions," 155–73, 2020.
- Butt, Simon. *The Constitutional Court And Democracy In Indonesia*. Brill | Nijhoff, 2015.
- Butt, Simon, And Fritz Siregar. "Multilayered Oversight: Electoral Administration In Indonesia." *Asian Journal Of Comparative Law* 16, No. S1 (December 1, 2021): S121–35.
- Choiri, Muttaqin, and Farid Ardyansyah. "The Politics of Waqf Practice in Pesantren Kyai Families in Bangkalan Madura, Indonesia." *El-Usrah: Jurnal Hukum Keluarga* 7.1 (2024): 272–293.
- Chukwuemerie, Andrew I. "Ecessity As The Mother Of Trail Blazing: Applying Alternative Dispute Resolution Mechanisms To Political Party Disputes In Africa." *Journal Of Politics And Law* 2, No. 4 (November 2, 2009).
- Clarke, Marlea, And Carolyn Bassett. "The Struggle For Transformation In South Africa: Unrealised Dreams, Persistent Hopes." *Journal Of Contemporary African Studies* 34, No. 2 (April 2, 2016): 183–89.
- Cohen, Herman J., Timothy D. Sisk, And Andrew Reynolds. "Elections And Conflict Management In Africa." *African Studies Review* 42, No. 2 (September 1999): 162.
- Croissant, Aurel, And Philip Lorenz. "Indonesia: Challenges Of Conflict And Consensus In The Era Of Reformasi." In *Comparative Politics Of Southeast Asia*, 71–111. Cham: Springer International Publishing, 2018.
- Dachi, Janvencius Valerius Nifowa'azaro, Rina Shahriyani Shahrullah, And Elza Syarief. "Reviewing The Constitutional Rights On Democratic Election Practices In Indonesia And The Philippines." *Justitia Et Pax* 39, No. 1 (April 16, 2024): 1–53.
- Damanik, Raja Ahab, Saldi Israaa, Yuslim, And Suharizal. "An Effective Supervisory System To Achieve Qualified General Election In Indonesia." *Medico-Legal Update* 21, No. 3 (June 3, 2021): 545–53.
- Daniller, Andrew M, And Diana C Mutz. "The Dynamics Of Electoral Integrity: A Three-Election Panel Study." *Public Opinion Quarterly* 83, No. 1 (May 21, 2019): 46–67.
- Donno, Daniela, Kelly Morrison, And Burcu Savun. "Not All Elections Are Created Equal: Election Quality And Civil Conflict." *The Journal Of Politics* 84, No. 1 (January 1, 2022): 134–47. <https://doi.org/10.1086/714778>.
- Drugov, Alexei. "Indonesia: Twenty Years Of Reforms." *Восток. Афро-Азиатские Общества: История И Современность*, No. 4 (2018).
- Eigen, Peter. "International Corruption: Organized Civil Society For Better Global Governance." *Social Research: An International Quarterly* 80, No. 4 (December 2013): 1287–1308.
- Elklit, J., And A. Reynolds. "The Impact Of Election Administration On The Legitimacy Of Emerging Democracies: A New Comparative Politics Research Agenda." *Commonwealth & Comparative Politics* 40, No. 2 (July 2002): 86–119.
- Erniyanti, Erniyanti. "Analysis Of Inhibiting Factors For Resolving Election Disputes

- Within The Authority Of The Election Supervisory Board (Bawaslu)." *Open Access Indonesia Journal Of Social Sciences* 6, No. 3 (February 7, 2024): 1010-14.
- Febriansyah, Muhammad, Muhamad Takiyuddin Ismail, And Norazam Mohd Noor. "Competing Not Complementing: Kpu, Bawaslu, And The Dynamic Of Election Monitoring In Pemilu 2019." *Asian Journal Of Political Science* 28, No. 3 (September 1, 2020): 275-93.
- Furculita, Cornelia. "Ensuring That State-to-State Dispute Settlement Procedures Under Eu Ftas Do Not End When They Have Just Begun." *Ssrn Electronic Journal*, 2020.
- Ginsburg, David, And Eddie Webster. "South Africa A Negotiated Transition." In *Trade Unions And Sustainable Democracy In Africa*, 111-24. Routledge, 2019.
- Guelke, Adrian. "South Africa: The Long View On Political Transition." *Nationalism And Ethnic Politics* 15, No. 3-4 (December 17, 2009): 417-35.
- Ham, Carolien Van. "Electoral Integrity." In *The Oxford Handbook Of Political Representation In Liberal Democracies*, Edited By Robert Rohrschneider And Jacques Thomassen, 112-33. Oxford University Press, 2020.
- Hasibuan, Ricky. "Indonesian Electoral Democracy: Between Pancasila And The Global Perspective." *Indonesian Journal Of Pancasila And Global Constitutionalism* 3, No. 1 (January 31, 2024).
- Hernández-Huerta, Víctor A. "Disputed Elections In Presidential Democracies: Contexts Of Electoral 'Blackmail.'" *The Journal Of Politics* 82, No. 1 (January 2020): 89-103.
- Heyl, Charlotte. "The Judiciary And The Rule Of Law In Africa." In *Oxford Research Encyclopedia Of Politics*. Oxford University Press, 2019.
- Inman, R. P., And D. L. Rubinfeld. "Understanding The Democratic Transition In South Africa." *American Law And Economics Review* 15, No. 1 (March 1, 2013): 1-38.
- Inokoba, Preye, And Iyabrade Ikporukpo. "Explaining Election As A Curse To Democracy In Africa: Reflections From Some Selected African Countries." *International Journal Of Advanced Research In Global Politics, Governance And Management* 4, No. 1 (February 2, 2023): 136-56.
- Jamaluddin, Jamaluddin. "The Settlement Of Election Disputes By Bawaslu Reviewed From The Indonesian Justice System." *Interdisciplinary Social Studies* 2, No. 2 (February 20, 2022): 521-31. <https://doi.org/10.55324/Iss.V2i2.121>.
- Kaaba, O'brien. "The Challenges Of Adjudicating Presidential Election Disputes In Domestic Courts In Africa." *African Human Rights Law Journal* 15, No. 2 (2015): 329-54.
- Kaaba, O'brien, And Babatunde Fagbayibo. "Adjudicating Presidential Election Disputes In Africa: The Emerging Challenge Of Election Technology." *Southern African Public Law* 36, No. 1 (December 10, 2021).
- Kamande, Kelvin. "The Role Of Alternative Electoral Dispute Resolution In Solving Electorate Disputes: A Case Study Of Electoral Justice In Kenya." *Ssrn Electronic Journal*, 2021.
- Krehbiel, Jay. "Elections, Public Awareness, And The Efficacy Of Constitutional Review." *Journal Of Law And Courts* 7, No. 1 (October 21, 2019): 53-79. <https://doi.org/10.1086/699241>.
- Kusadarini, Eny, Anang Priyanto, And Sri Hartini. "The Process And Role Of The Judiciary In Election Administration Dispute Resolution In Indonesia." *Jurnal Civics: Media Kajian Kewarganegaraan* 18, No. 2 (October 31, 2021): 334-44. <https://doi.org/10.21831/Jc.V18i2.44175>.
- Lekorwe, Mogopodi H. "The Role And Status Of The Independent Electoral Commission." *Journal Of African Elections* 5, No. 2 (December 1, 2006): 62-80.
- Lieberman, Evan, And Rorisang Lekalake. "South Africa's Resilient Democracy." *Journal Of Democracy* 33, No. 2 (April 2022): 103-17.

- Madril, Oce. "The Authority Of Administrative Court In Settling The Disputes Over Election Process In Indonesia." *Yustisia Jurnal Hukum* 8, No. 3 (February 2, 2020): 365.
- Magraw, Daniel, Sofia Plagakis, And Jessica Schifano. "Ways And Means Of Citizens' Participation In Trade And Investment Dispute Settlement Procedures." *Ssrn Electronic Journal*, 2008. <https://doi.org/10.2139/ssrn.1159770>.
- Makunya, Trésor Muhindo. "Overcoming Challenges To The Adjudication Of Election-Related Disputes At The African Commission On Human And Peoples' Rights: Perspectives From The Ngandu Case." *African Human Rights Law Journal* 22, No. 2 (January 25, 2023): 1-24.
- Maphephe, John, Rishidaw Balkaran, And Surendra Thakur. "Southern African Region Leading The Way In Election Technology: 2009-2019 Review Of Global Standards And Unanswered Questions." *Journal Of Law, Society And Development* 6, No. 1 (March 12, 2020).
- Matatu, Nicholas. *Protecting Electoral Integrity: The Case Of South Africa*. International Institute For Democracy And Electoral Assistance (International Idea), 2023. <https://doi.org/10.31752/idea.23.88>.
- Miezah, Hilary A. A. "Control And Security Mechanisms." In *Elections In African Developing Democracies*, 151-60. Cham: Springer International Publishing, 2018. https://doi.org/10.1007/978-3-319-53706-1_8.
- Muharram, Susilawati, Nikmatullah Nur, And Alamsyah Agit. "Legal Position Of Bawaslu In Monitoring And Preventing Money Politics Practice In Election Process." *Formosa Journal Of Applied Sciences* 2, No. 7 (July 15, 2023): 1589-1560.
- Munte, Herdi, And. Yuliandri. "Legal Pluralism In Dispute Resolution On Election Justice." In *Proceedings Of The International Conference On Culture Heritage, Education, Sustainable Tourism, And Innovation Technologies*, 22-27. Scitepress - Science And Technology Publications, 2020.
- Ncube, Mthuli, Abebe Shimeles, And Audrey Verdier-Chouchane. "South Africa's Quest For Inclusive Development." In *International Development*, 697-713. Oxford University Press, 2014. <https://doi.org/10.1093/acprof:oso/9780199671656.003.0042>.
- Ndletyana, Mcebisi. "The IEC and The 2014 Elections: A Mark Of Institutional Maturity?" *Journal Of African Elections*, June 1, 2015, 171-87.
- Ngetich, Weldon Kipngeno. "Factors Affecting Project Management Capacity Among Electoral Work Force In Kenya." *Reviewed Journal International Of Business Management [Issn 2663-127x]* 1, No. 1 (January 9, 2019): 66-81.
- Nkansah, Lydia A. "Dispute Resolution And Electoral Justice In Africa: The Way Forward." *Ssrn Electronic Journal*, 2015. <https://doi.org/10.2139/ssrn.2788394>.
- Norris, P. "International Forces." In *Why Elections Fail*, 87-112. Cambridge University Press, 2015.
- Norris, Pippa. *Strengthening Electoral Integrity*. Cambridge University Press, 2017.
- Norris, Pippa, Richard W. Frank, And Ferran Martínez I Coma. "Assessing The Quality Of Elections." *Journal Of Democracy* 24, No. 4 (October 2013): 124-35. <https://doi.org/10.1353/jod.2013.0063>.
- Nyane, Hoolo And Mogale Malapane. "The Role Of The Courts In The Public Policy Domain In South Africa." *Obiter* 43, No. 4 (January 6, 2023).
- Ojo, Emmanuel O. "Public Perceptions Of Judicial Decisions On Election Disputes: The Case Of The 2007 General Election In Nigeria." *Journal Of African Elections* 10, No. 1 (June 1, 2011): 101-13. <https://doi.org/10.20940/jae/2011/V10i1a5>.
- Omara, Andy. "Interpreting The Indonesian Constitutional Court Approach In Conducting Judicial Review On Cases Related To Economic And Social Rights." *Indonesia Law Review* 7, No. 2 (August 31, 2017).
- Omotola, J Shola. "Mechanisms Of Post-Election Conflict Resolution In Africa's 'New'

- Democracies." *African Security Review* 19, No. 2 (June 2010): 2-13.
- Prawira, Syailendra Anantya. "Election Violation And Election Law Enforcement In General Election In Indonesia." *Jurnal Hukum Volkgeist* 4, No. 1 (December 8, 2019): 25-34.
- Risky, Saiful, Sholahuddin Al-Fatih, And Mabarroh Azizah. "Political Configuration Of Electoral System Law In Indonesia From State Administration Perspective." *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, June 30, 2023, 119-30.
- Robinson, Mark, And Steven Friedman. "Civil Society, Democratization, And Foreign Aid: Civic Engagement And Public Policy In South Africa And Uganda." *Democratization* 14, No. 4 (August 24, 2007): 643-68.
- Rosada, Dede. "Model Of Democracy In Indonesia." In *Proceedings Of The Third International Conference On Social And Political Sciences (Icsps 2017)*. Paris, France: Atlantis Press, 2018.
- Salman, Radian, And Rosa Ristawati. "Constitutional Dialogue In The Indonesian Election Law: Tension Between The Indonesian Constitutional Court And The Legislature." In *Proceedings Of The International Law Conference*, 156-62. Scitepress - Science And Technology Publications, 2018.
- Sherlock, Stephen. "Democratic Achievement And Policy Paralysis: Implications For Indonesia's Continued Ascent." In *Indonesia's Ascent*, 112-29. London: Palgrave Macmillan UK, 2015.
- Siachiwena, Hangala, And Chris Saunders. "Elections, Legitimacy, And Democratic Consolidation In Southern Africa Lessons From Zambia, Zimbabwe And Malawi." *Journal Of African Elections* 20, No. 1 (June 1, 2021): 67-89.
- Sixpence, Pedzisai, Alouis Chilunjika, And Emmanuel Sakarombe. "Options For Post-Election Conflict Resolution In Africa." *International Journal Of Law And Public Policy* 3, No. 1 (March 11, 2021): 49-59.
- Skochylas-Pavliv, O.V. "Analysis Of Mechanisms For Appealing Against Decisions, Actions Or Inactions Related To The Electoral Process In Ukraine." *Analytical And Comparative Jurisprudence*, No. 4 (April 28, 2022): 195-201.
<https://doi.org/10.24144/2788-6018.2021.04.34>.
- Steinbacher, Karoline. "Case Study: South Africa." In *Exporting The Energiewende*, 239-88. Wiesbaden: Springer Fachmedien Wiesbaden, 2019.
- Sulistyowati, Tri, And Zulkifli Aspan. "Assessing The Indonesian General Election 2019: Election And Human Rights Relations." In *Proceedings Of The 1st International Conference On Science And Technology In Administration And Management Information*, Icsiami 2019, 17-18 July 2019, Jakarta, Indonesia. Easy, 2021.
- Suryani, Irma, et al. "Integration of Islamic Law in regional development in Indonesia." *JURIS (Jurnal Ilmiah Syariah)* 22.1 (2023): 1-11.
- Tapscott, Chris. "South Africa In The Twenty-First Century: Governance Challenges In The Struggle For Social Equity And Economic Growth." *Chinese Political Science Review* 2, No. 1 (March 6, 2017): 69-84.
- "The End Of Apartheid In South Africa." *Strategic Survey* 94, No. 1 (January 1993): 214-23.
- Wahyuni, Dina Puji, And Shruti Bedi. "How The General Election Supervisory Agency Resolving The Election Disputes?" *Indonesian State Law Review (Islrev)* 6, No. 1 (June 1, 2023).
- Yamani, Akhmad Zaki, Sunardi Sunardi, And Hanafi Arief. "Juridical Review Of Elections Dispute Settlement In Indonesia." *International Journal Of Law, Environment, And Natural Resources* 4, No. 1 (April 18, 2024): 29-40.
- Zdanevich, Alexander. "Features Of Socio-Political Processes In The South Of The African Continent In A Crisis (1990s – 2020s)." *Istoriya* 13, No. 3 (113) (2022).