

Judicial Politics and The Reconstruction of Indonesia's Regional Head Election Design

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Abstract : *This article examines judicial politics in reconstructing Indonesia's simultaneous regional head election design. The issue arises from the unstable constitutional position of regional head elections, which have moved between the regional government regime and the broader electoral regime. Using normative legal research with statutory, case, and conceptual approaches, this article analyses the 1945 Constitution, election and regional election laws, and Constitutional Court decisions, particularly Decisions No. 072-073/PUU-II/2004, 97/PUU-XI/2013, 55/PUU-XVII/2019, 85/PUU-XX/2022, and 135/PUU-XXII/2024. The article finds that the Constitutional Court has not merely acted as a negative legislator, but has also shaped constitutional parameters for electoral design through its jurisprudence. Decision No. 135/PUU-XXII/2024 represents a decisive shift by separating national elections from regional elections and positioning regional head elections within the architecture of regional elections. This reconstruction requires harmonisation between election and regional election laws, institutional strengthening of electoral bodies, and a tiered electoral justice system. The article contributes to constitutional election law by framing regional head election reform as a matter of judicially shaped democratic design.*

Keywords : *judicial politics; regional head elections; electoral simultaneity; Constitutional Court; electoral justice*

Abstrak : Artikel ini membahas judicial politics dalam rekonstruksi desain Pilkada serentak di Indonesia. Persoalan utama artikel ini bertolak dari kedudukan konstitusional Pilkada yang tidak sepenuhnya stabil, karena bergerak antara rezim pemerintahan daerah dan rezim pemilu. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan perundang-undangan, pendekatan kasus, dan pendekatan konseptual. Bahan hukum utama meliputi UUD NRI Tahun 1945, undang-undang bidang pemilu dan pilkada, serta putusan Mahkamah Konstitusi, khususnya Putusan No. 072-073/PUU-II/2004, 97/PUU-XI/2013, 55/PUU-XVII/2019, 85/PUU-XX/2022, dan 135/PUU-XXII/2024. Artikel ini menunjukkan bahwa Mahkamah Konstitusi tidak hanya berperan sebagai negative legislator, tetapi juga membentuk parameter konstitusional bagi desain elektoral. Putusan No. 135/PUU-



XXII/2024 menjadi titik penting karena memisahkan pemilu nasional dan pemilu daerah serta menempatkan Pilkada dalam arsitektur pemilu daerah. Rekonstruksi tersebut menuntut harmonisasi UU Pemilu dan UU Pilkada, penguatan kelembagaan penyelenggara pemilu, serta sistem keadilan elektoral yang berjenjang. Temuan ini penting untuk menempatkan reformasi Pilkada bukan sekadar sebagai perubahan jadwal elektoral, melainkan sebagai penataan ulang desain demokrasi lokal yang berbasis konstitusi.

Kata kunci : Judicial Politics; Pilkada; Keserentakan Pemilu; Mahkamah Konstitusi; Keadilan Elektoral

Introduction

The design of regional head elections in Indonesia has never rested on a stable constitutional construction. Since the amendment of the 1945 Constitution, its regulation has moved between the regional Government regime, the general election regime, administrative effectiveness, and democratic legitimacy. This tension arises from different constitutional bases: Article 18(4) provides that governors, regents, and mayors are democratically elected, while Article 22E regulates general elections on the principles of direct, general, free, secret, honest, and fair elections. The distinction affects institutional design, electoral stages, supervision, result dispute resolution, and regulatory direction. Accordingly, the central issue is not merely terminological, but concerns whether regional head elections should be situated as a mechanism of regional Government or as part of an integrated democratic electoral system.

The Constitutional Court has been instrumental in shaping this constitutional meaning. Decision No. 072-073/PUU-II/2004 defined direct regional head elections as a general election in a material sense for implementing Article 18 of the 1945 Constitution, but not as a general election in a formal sense as defined by Article 22E. Then, this direction changed with Decision No. 97/PUU-XI/2013, which confirmed the separation between the general election regime and the regional head election regime, especially in terms of jurisdiction over result disputes. However, Decision No. 55/PUU-XVII/2019 re-opened the space for alternative readings of electoral simultaneity, while Decision No. 85/PUU-XX/2022 strengthened the conceptual integration between general elections and regional head elections based on shared principles, electoral institutions, and the practical realities of electoral administration.

These developments demonstrate that the design of simultaneous regional head elections has been shaped not only by legislative legal policy, but also by judicial politics. Legislative legal policy is reflected in statutory changes, beginning with regional head elections within the regional Government regime, the shift toward direct elections, the emergence of the model of election through regional legislative councils under Law 22/2014, its correction through Government Regulation in Lieu of Law (Perppu) 1/2014, and the formation of simultaneous regional head elections through Law 1/2015, Law 8/2015, and Law 10/2016. Law 22/2014 marked an important point because it restored the election of regional heads through regional legislative councils. Government Regulation in Lieu of Law 1/2014

subsequently corrected that policy choice by reinstating direct regional head elections, while Law 10/2016 became an important legal basis for the 2024 National Simultaneous Regional Head Elections. Judicial politics, by contrast, is reflected in the way the Constitutional Court has interpreted, corrected, and directed this design through its constitutional decisions.

This construction gained renewed relevance after the 2024 general elections and regional head elections. The administration of all types of elections within the same year created overlapping stages, institutional burdens on election administrators, pressure on political parties, reduced visibility of local issues, and challenges to institutional effectiveness. In Decision No. 135/PUU-XXII/2024, the Court reassessed the design of electoral simultaneity and directed the separation of national elections from regional elections. National elections are directed toward electing the president and vice president, the House of Representatives, and the Regional Representative Council, whereas regional elections are directed toward electing provincial regional legislative councils, regency / municipal regional legislative councils, governors, regents, and mayors. This decision did not merely correct the electoral schedule; it reconstructed the model for administering national and regional elections.

Several previous studies have examined simultaneous regional head elections from the perspectives of constitutionality, the legal policy of electoral simultaneity, the Constitutional Court's jurisdiction, the special court for regional head elections, and the electoral justice system. "Legal policy of regulating electoral simultaneity is based on the Constitutional Court decisions, which are one of the important factors in shaping the model of simultaneity," Fuadi explained.¹ Seran analyzes the constitutionality of direct national simultaneous regional head elections as a design of local democracy.² Suhartono discusses the constitutional issues of the special court and the role of the Constitutional Court in resolving disputes over the results of the regional head elections.³ Fahmi and other authors situate the handling of violations and process disputes as part of the electoral justice system.⁴

This article adopts a different stance by interpreting the Constitutional Court decisions series as a construction of judicial politics that has gradually reformed the design of simultaneous regional head elections.

Accordingly, this article addresses two questions: first, how has the Constitutional Court's judicial politics constructed the design of simultaneous regional head elections; and second, how should the design of simultaneous regional head elections be reconstructed after Decision No. 135/PUU-XXII/2024 within the framework of national and regional elections? This article aims to analyze these developments and formulate a normative

¹ Abdul Basid Fuadi, "Politik Hukum Pengaturan Keserentakan Pemilu," *Jurnal Konstitusi* 18, no. 3 (2021): 702–723.

² Gotfridus Goris Seran, "Konstitusionalitas dan Desain Pemilukada Langsung Serentak Nasional," *Jurnal Konstitusi* 16, no. 3 (2019): 655–676.

³ Slamet Suhartono, "Konstitusionalitas Badan Peradilan Khusus dan MK dalam Penyelesaian Sengketa Hasil Pilkada Langsung," *Jurnal Konstitusi* 12, no. 3 (2015): 503–523.

⁴ Khairul Fahmi, Feri Amsari, Busya Azheri, and Muhammad Ihsan Kabullah, "Sistem Keadilan Pemilu dalam Penanganan Pelanggaran dan Sengketa Proses Pemilu Serentak 2019 di Sumatera Barat," *Jurnal Konstitusi* 17, no. 1 (2020): 1–26.

reconstruction consistent with popular sovereignty, effective electoral administration, legal certainty, and electoral justice.

Methods

This study employs normative legal research, namely research that relies on the examination of legal norms, legal principles, legal doctrines, and court decisions. Soekanto and Mamudji explain that normative legal research is based on library materials or secondary data as the primary basis of legal inquiry.⁵ This methodological choice is grounded in the nature of the issue examined, namely the Constitutional Court's judicial politics in shaping and reconstructing the design of simultaneous regional head elections. The focus of this study is not the measurement of the empirical behavior of voters or electoral administrators, but rather legal reasoning concerning constitutional norms, statutory provisions, and Constitutional Court decisions that influence the direction of Indonesia's electoral design.

It applies three approaches. Marzuki stated that the legal research may use statutory, case, and conceptual approaches to answer the legal issues under examination.⁶ First, the statutory approach is carried out by looking at the 1945 Constitution of the Republic of Indonesia, laws regarding general elections, regional head elections, regional Government, election management bodies, and the Constitutional Court. Secondly, the case approach is used by looking at relevant decisions of the Constitutional Court, including Decision No. 072-073/PUU-II/2004, Decision No. 97/PUU-XI/2013, Decision No. 55/PUU-XVII/2019, Decision No. 85/PUU-XX/2022, and Decision No. 135/PUU-XXII/2024. Third, the conceptual approach is used to explain the concepts of legal politics, judicial politics, legal reconstruction, constitutional democracy, electoral justice, and the judicialization of politics.

The primary legal materials comprise the 1945 Constitution, election and regional election laws, technical electoral regulations, and Constitutional Court decisions. Secondary materials comprise books, scholarly articles, and research on legal politics, election law, constitutional law, electoral institutions, and electoral justice. Supporting materials consist of official reports and institutional data. The materials were collected through library research and document study, classified according to the article's analytical themes, and analyzed qualitatively and prescriptively to interpret the relationship between constitutional norms, statutes, and the Court's reasoning, and to formulate the future direction of regulatory reconstruction.

⁵ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: RajaGrafindo Persada, revised ed.), 13–14.

⁶ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, revised ed.), 133–136, 158–166, 177–180.

Result And Discussion

Judicial Politics as an Analytical Framework for Regional Head Election Design

The discussion of simultaneous regional head elections must be situated within the framework of judicial politics. Mahfud MD defines legal politics as the official direction concerning the law to be enacted to achieve the objectives of the state.⁷ In the electoral field, legal politics cannot be understood solely through legislative products, because Constitutional Court decisions also significantly influence the formation and implementation of election law. Therefore, this article employs the term judicial politics to refer to the legal policy direction formed through the Constitutional Court's reasoning and decisions when interpreting constitutional norms and reviewing the constitutionality of statutes.

Judicial politics is not intended to position the Constitutional Court as a lawmaker in the formal sense. Budhiati argues that the Constitutional Court's interpretation in electoral cases has a direct relationship with legal certainty in elections and the broader direction of legal policy in electoral democracy.⁸ In constitutional practice, the Court's decisions often produce normative consequences that go beyond the resolution of a concrete case. A decision may annul a norm, provide a constitutional interpretation, postpone legal consequences, establish new parameters, or direct the legislature to reorganize a particular regulatory field.

Electoral design is a kind of constitutional engineering. Sartori treats the constitutional design of institutions as a matter of choosing structures, incentives, and political results.⁹ Decisions on electoral timing, the simultaneity model, the offices elected simultaneously, the design of electoral management bodies, and the place of dispute resolution are not neutral technical decisions. Each design has implications for representation, Government effectiveness, institutional burdens, the behavior of political parties, the capacity of voters to understand electoral issues, and the legitimacy of electoral outcomes. When the Court interprets the relationship between national and regional head elections, it is part of the construction of the electoral architecture that the legislature must follow.

This is where the concept of judicialization of politics becomes relevant. Perdana shows the impact of judicial review by the Constitutional Court on several important characteristics of Indonesia's electoral system, such as thresholds, ballot design, and simultaneous elections.¹⁰ Many of the strategic electoral issues that initially were debated in the political arena later took on a normative character in decisions by the Constitutional Court. However, this does not necessarily amount to judicial domination over politics. The Court's intervention is a consequence of the need to ensure that the decisions of the

⁷ Moh. Mahfud MD, *Politik Hukum di Indonesia* (Jakarta: Rajawali Pers, revised ed.), 1–2.

⁸ Ida Budhiati, *Mahkamah Konstitusi dan Kepastian Hukum Pemilu: Tafsir Mahkamah Konstitusi terhadap UUD NRI Tahun 1945 untuk Kepastian Hukum Pemilu* (Jakarta: Sinar Grafika, 2020).

⁹ Giovanni Sartori, *Comparative Constitutional Engineering: An Inquiry into Structures, Incentives and Outcomes*, 2nd ed. (Basingstoke: Macmillan, 1997).

¹⁰ Aditya Perdana, "Judicialization of Politics in Indonesia's Electoral System: Case Study Judicial Review on Threshold, Balloting Structure, and Simultaneous Election at Constitutional Court," *Politik Indonesia: Indonesian Political Science Review* 6, no. 3 (2021).

legislature do not cross constitutional limits in a democratic state based on the rule of law.

This framework explains why simultaneous regional head elections cannot be simply understood as a matter of whether voting is done on the same day. Simultaneity raises questions about the nature of elections to be held simultaneously, nationally or regionally; the spacing of electoral cycles; logistical challenges; oversight; and dispute resolution. The reconstruction of simultaneous regional head elections, thus, must be understood as a matter of institutional design and electoral justice. International IDEA explained that an electoral justice system is needed to ensure that each action, procedure, and decision in the electoral process is within the legal framework and that remedies are available to address electoral violations.¹¹

Thus, under this framework, the Constitutional Court is positioned as a constitutional actor that guides the direction of the reconstruction of simultaneous regional head elections without taking over the legislative function. Budhiati emphasizes that changes in the electoral system are related to the need to guarantee the integrity of the electoral process, the results, and the electoral administrators.¹² Constitutional Court decisions establish constitutional parameters to be considered in regulatory reform. The Court's decisions should be read as a chain that gradually moved regional head elections from the status of regional Government to part of the region's electoral architecture.

Constitutional Interpretation of the Electoral and Regional Head Election Regimes

The dynamics of simultaneous regional head elections begin with the relationship between “general elections” and “regional head elections.” Textually, the 1945 Constitution places them in different constitutional settings. Article 18(4) refers to regional heads as officials who are democratically elected, whereas Article 22E regulates general elections on the principles of direct, general, free, secret, honest, and fair elections. This difference opens room for interpreting regional head elections as part of regional Government, while at the same time subjecting them to democratic electoral principles because they involve citizens’ voting rights.

Constitutional Court Decision No. 072-073/PUU-II/2004 established a construction of material integration. The Court held that once the legislature chose direct regional head elections, their administration had to reflect the principles of direct, general, free, secret, honest, and fair elections and be conducted by an independent institution. Nevertheless, the Court maintained a formal distinction between regional head elections and general elections under Article 22E. Regional head elections were therefore placed in a dual position: rooted in regional Government but materially governed by democratic electoral principles.

¹¹ International IDEA, *Electoral Justice: The International IDEA Handbook* (Stockholm: International IDEA, 2010).

¹² Ida Budhiati, “Rekayasa Sosial Sistem Integritas Penyelenggara Pemilu,” *Jurnal Hukum Sasana* 8, no. 1 (2022): 1–18.

This interpretive direction shifted in Decision No. 97/PUU-XI/2013, which affirmed the formal separation between general elections and regional head elections, especially in relation to the Court's jurisdiction over result disputes. However, Decision No. 55/PUU-XVII/2019 reopened the constitutional space for several models of electoral simultaneity, including national and local election clusters. Decision No. 85/PUU-XX/2022 then strengthened conceptual reintegration by emphasizing that national elections and regional head elections are administered by the same electoral institutions and are governed by the same democratic principles.

These developments reveal three phases of constitutional interpretation: material integration, formal separation, and conceptual reintegration. The central question is therefore no longer whether regional head elections are identical to general elections, but how they should be situated within the architecture of democratic elections without erasing their character as part of regional Government.

Legislative Evolution and the Instability of Electoral Design in Simultaneous Regional Head Elections

In parallel with the changes in the laws relating to the election of regional leaders, the dynamics of constitutional interpretation have changed. Santoso and Budhiati argue that elections in Indonesia are to be understood from the relationship between electoral institutions, electoral administration, and electoral supervision.¹³ Since the early reform era, the regulation of regional head elections has shown instability in electoral design. This instability is reflected in the modification of the electoral model, the design of simultaneity, the forum for dispute resolution, and electoral schedules in extraordinary circumstances. But such instability should not always be regarded as merely a weakness. In certain contexts it signifies an ongoing search for the institutional electoral form most appropriate to constitutional democracy, efficient administration, and the requirements of regional Government.

Initially, regional head elections were placed within the regional Government regime through Law 32/2004, which translated the phrase “democratically elected” into direct elections by the people. This model strengthened electoral legitimacy, but it also required more complex regulation concerning candidacy, campaigns, voting, vote counting, disputes, financing, supervision, and law enforcement.

The tension between direct and representative democracy re-emerged through Law 22/2014, which restored the election of regional heads by regional legislative councils. Government Regulation corrected this policy in Lieu of Law 1/2014, which reinstated direct regional head elections and was later enacted as Law 1/2015. Law 8/2015 and Law 10/2016 subsequently formed the foundation for direct simultaneous regional head elections by positioning simultaneity as an instrument to simplify electoral timing, reduce fragmented stages, improve budget efficiency, and create a more orderly regional political cycle.

¹³ Topo Santoso and Ida Budhiati, *Pemilu di Indonesia: Kelembagaan, Pelaksanaan, dan Pengawasan* (Jakarta: Sinar Grafika, 2019), 469–470.

Simultaneity, however, also generated conceptual and technical problems. It required clarity on whether regional head elections remained within the regional Government regime or became part of a broader electoral system. It also raised questions concerning institutional readiness, supervisory capacity, logistics, financing, and voters' ability to understand local issues in proximity to national contests. The adjustment of the 2020 regional head elections through Government Regulation in Lieu of Law 2/2020, later enacted as Law 6/2020, showed that simultaneity requires flexibility without sacrificing legal certainty.

The problem culminated in the 2024 electoral cycle. Article 201(8) of Law 10/2016 directed national simultaneous regional head elections to be held in 2024, while KPU Regulation 3/2022 and KPU Regulation 2/2024 set the schedules for the 2024 general elections and regional head elections. This concentration of electoral burdens placed election administrators, supervisors, participants, voters, and political parties under a compressed cycle. Thus, the legislative evolution of simultaneous regional head elections reveals an unsettled design shaped by legislative choices, technical needs, political pressures, and constitutional correction. This background is essential for understanding Decision No. 135/PUU-XXII/2024, which directed the separation of national elections and regional elections as a new reconstruction.

Reconstructing the Design of Simultaneity through the Constitutional Court Decision No. 135/PUU-XXII/2024

The Constitutional Court Decision No. 135/PUU-XXII/2024 is an important point in the development of the design of Indonesia's simultaneous elections. This decision represents more than just a reshuffling of the schedule for general elections and regional head elections. More fundamentally, it implies a paradigm shift from a model of simultaneity that aims at the maximum combination of types of elections within a single year to a differentiated, proportional, and democracy-oriented model of electoral simultaneity.

The decision is based on the concrete experience of the general elections in 2024 and the regional head elections. In the same year, Indonesia held presidential and vice-presidential elections; elections for members of the House of Representatives, the Regional Representative Council, provincial regional legislative councils, and regency/municipal regional legislative councils; and elections for governors, regents, and mayors. Law 7/2017 was the formal design of the 2024 general elections. The implementation of the 2024 Regional Head Elections is based on the Regional Election Law as last amended by Law 6/2020 and the technical schedule issued by the KPU. In substantive terms, this experience showed that an excessively compressed model of simultaneity produced problems in terms of the quality of electoral administration, institutional preparedness, concentration of voters, and the efficacy of political competition.

The Court read these issues as constitutional problems in electoral design. Holding all types of elections within the same year created overlapping stages. The stages of national elections had not been fully completed when the stages of regional head elections had to commence. Election administrators were required to manage administration, logistics, technical regulations,

supervision, violation handling, and disputes within a highly compressed timeframe. Such a condition had the potential to weaken institutional capacity to ensure that every stage was conducted carefully, professionally, and accountably.

The decision also positioned voters as constitutional subjects in the design of simultaneity. The Court found that the scheduling of national elections and regional head elections too close to each other tended to obscure regional development issues. An overly compressed electoral schedule could undermine the quality of voters' exercise of their voting rights as voters were faced with numerous electoral contests, numerous contenders, and various issues within a short span of time. However, regional head elections are a civic arena in which citizens deliberate the local development agenda, the capacity of candidates for regional head positions, and the direction of regional public policy.

The Court also took into account the burden on political parties. Decision No. 135/PUU-XXII/2024 noted that the rapid succession of elections forced political parties to prepare cadres for different levels of electoral contest within a limited time span. This condition may foster pragmatic and elitist practices of candidacy, not sufficiently based on the development of party cadres. In contrast, political parties should engage in political recruitment systematically and responsibly. Therefore, excessive compression of electoral design may endanger the cadre development function of political parties and reduce the quality of electoral competition.

Based on these considerations, Decision No. 135/PUU-XXII/2024 confirmed the need to separate national and regional elections. National elections are for the president and vice president, the House of Representatives, and the Regional Representative Council. Regional elections include the election of provincial regional legislative councils, regency/municipal regional legislative councils, governors, regents, and mayors. This construction reveals an important shift: the regional head elections are no longer understood as stand-alone electoral contests but as a part of a single regional election package with the election of regional legislative councils.

This reconstruction has constitutional rationality because it clarifies levels of representation, reduces institutional burdens, gives political parties more time for recruitment, and strengthens local democracy by providing regional issues with a more autonomous electoral arena. From the perspective of judicial politics, Decision No. 135/PUU-XXII/2024 demonstrates that the Court does not merely review the challenged norms, but also establishes parameters for electoral design. The Court did not reject simultaneity; rather, it corrected a form of simultaneity that was overly compressed. Simultaneity is maintained, but it is placed within two major clusters: national simultaneity and regional simultaneity. This decision must therefore be understood as the starting point of reconstruction, not as a final answer. Its implementation requires regulatory harmonization, institutional strengthening of electoral management bodies, and the restructuring of the electoral justice system so that reconstruction does not stop at a change in the electoral calendar, but becomes a genuine paradigm shift.

The Constitutional Court's Paradigm in Regional Election Result Disputes: From Result Disputes to Electoral Justice

The reconstruction of simultaneous regional head elections is not only concerned with electoral schedules and the institutional design of election management bodies, but also with dispute resolution. International IDEA views electoral justice as a system that ensures that every action, procedure, and decision in the electoral process complies with the law and provides remedies for violations.¹⁴ In a democratic electoral system, results cannot be separated from process. Vote totals acquire constitutional legitimacy only when they are produced through a process that is free, honest, fair, transparent, and accountable. Therefore, judicial politics in regional head election design must also include the Constitutional Court's changing paradigm in adjudicating regional election result disputes.

In a narrow sense, regional election result disputes may be understood as disputes concerning objections to the determination of vote results. Zoelva shows that the resolution of regional head election result disputes by the Constitutional Court has, from the outset, presented problems that cannot always be reduced to numerical vote calculations.¹⁵ Under an overly narrow construction, the Court would examine only vote margins and their effect on the determination of the elected candidate pair. In practice, however, result disputes are almost always connected to the preceding process, including administrative violations, abuse of authority, vote buying, lack of neutrality among state apparatus, manipulation of voter lists, campaign violations, or weaknesses in the governance of voting and vote counting. Because results constitute the endpoint of a process, serious defects in that process may undermine the legitimacy of the results.

After Decision No. 97/PUU-XI/2013, the Court's jurisdiction over regional election result disputes was challenged, as regional head elections were separated from the formal general election regime. The legislature then granted transitional jurisdiction to the court until a special court was established. But no such court was ever established. Decision No. 85/PUU-XX/2022 further strengthened the legitimacy of the Court's jurisdiction by confirming that the regional head elections, *de jure* and *de facto*, are organized by the same institutions as are the national elections and subject to the principles of democratic elections. Therefore, disputes over the results of regional elections can no longer be interpreted as a temporary jurisdiction due to the institutional vacuum but as part of the electoral dispute resolution system.

This paradigm implies that the Court is not a mere "calculator of outcomes." Santoso and Budhiati explain that the resolution of electoral disputes is closely related to electoral institutions, administration, and supervision.¹⁶ The Court continues to hear disputes regarding results, but it must interpret those results within the context of the process that generated them. In cases of violations of

¹⁴ International IDEA, *Electoral Justice: The International IDEA Handbook* (Stockholm: International IDEA, 2010), 1–5.

¹⁵ Hamdan Zoelva, "Problematika Penyelesaian Sengketa Hasil Pemilukada oleh Mahkamah Konstitusi," *Jurnal Konstitusi* 10, no. 3 (2013): 377–398.

¹⁶ Topo Santoso and Ida Budhiati, *Pemilu di Indonesia: Kelembagaan, Pelaksanaan, dan Pengawasan* (Jakarta: Sinar Grafika, 2019), 500–508.

such seriousness as to compromise the purity of the vote or the equality of the electoral competition, the Court may order corrective measures such as revoting, recounts, or other measures needed to re-establish legitimacy. But concern for process does not mean that the Court usurps the functions of the KPU, Bawaslu, DKPP, or other courts. Each institution has its jurisdiction. The Court serves as a final recourse to rectify any violations that were not addressed at an earlier stage, thereby impacting the outcome or validity of the election.

This construction shows the close relationship between regional election result disputes and residual problems from earlier electoral stages. Fahmi and other authors explain that the electoral justice system positions violations and process disputes as essential elements in guaranteeing fair elections.¹⁷ Such residual problems may include unresolved candidacy disputes, unimplemented recommendations from supervisory bodies, violations of the neutrality of state apparatus, or vote buying that is not handled effectively. In simultaneous regional head elections, these residual problems may increase because many regions conduct elections at the same time, while the capacity for supervision and violation handling remains limited. Therefore, the greater the scale of simultaneity, the greater the need for a strong electoral justice system.

Electoral justice is not about overturning the results simply because there were violations. International IDEA stresses that electoral justice needs effective and timely mechanisms that can provide adequate remedies to electoral violations.¹⁸ Electoral justice demands proportionality between the type of violation, its impact, and the form of correction. Localized violations can be addressed by revoting in the affected precincts; vote tabulation errors can be addressed by recounts; and violations involving candidacies or unequal competition may have larger implications for the legitimacy of the election. Therefore, the reconstruction of the regional simultaneous elections must incorporate the disputes regarding the regional election results into a hierarchical, proportional, and constitutional electoral justice system, rather than treating them solely as the final phase of numerical result disputes.

Future Directions for the Regulatory Reconstruction of Simultaneous Regional Head Elections

Constitutional Court Decision No. 135/PUU-XXII/2024 provides a new constitutional direction, but its implementation cannot be limited to changing the voting schedule. The separation between national elections and regional elections requires comprehensive restructuring of electoral regulation, including election norms, regional head election norms, electoral institutions, stages, supervision, dispute resolution, and governmental transition after elections.

¹⁷ Khairul Fahmi, Feri Amsari, Busya Azheri, and Muhammad Ichsan Kabullah, "Sistem Keadilan Pemilu dalam Penanganan Pelanggaran dan Sengketa Proses Pemilu Serentak 2019 di Sumatera Barat," *Jurnal Konstitusi* 17, no. 1 (2020): 1–26.

¹⁸ International IDEA, *Electoral Justice: The International IDEA Handbook* (Stockholm: International IDEA, 2010), 1–5.

The first two agendas are to establish a legal framework distinguishing national elections from regional elections and to harmonize the Election Law with the Regional Election Law. This distinction does not necessarily require two separate statutes, but it must be clearly reflected in the structure of legal norms. If regional elections include both regional legislative councils and regional heads, the regulation of voter lists, candidacy, campaigns, campaign finance, logistics, voting, vote recapitulation, supervision, law enforcement, result disputes, and inauguration must be harmonized. Without such harmonization, regional elections risk becoming normatively fragmented.

The third agenda is to improve KPU's, Bawaslu's, and DKPP's institutional capacity, especially at the regional level. Pasaribu stressed that the independence of election management bodies covers institutional, functional, and personal dimensions.¹⁹ Budhiati also places the integrity system of election administrators as an important part of electoral transformation that guarantees the integrity of electoral processes, results, and administrators.²⁰ Accordingly, regional electoral institutions need to have adequate capacity in planning, logistics management, voter services, supervision, violation handling, protection of independence, digital infrastructure, and institutional supervision. To guarantee the independence of election administrators, it is not enough to have general legal norms but also transparency, ethical oversight, and public accountability.

The fourth agenda is to structure the electoral justice system in a tiered manner. Fahmi and other authors show that violations and process disputes must be positioned as part of the electoral justice system, rather than as issues detached from election results.²¹ Each type of violation and dispute must have a clear forum for resolution, definite time limits, and firm legal consequences. Bawaslu must be strengthened in prevention, supervision, violation handling, and the resolution of process disputes. The KPU must consistently and accountably follow up on supervisory recommendations. DKPP must address ethical violations that may affect electoral stages. The Constitutional Court remains the forum for result disputes, but process violations should be considered only when they have a real connection with the result or the legitimacy of the election. In this way, not all residual problems from earlier stages will accumulate before the Court.

The fifth agenda is to regulate earlier, more participatively, and based on evaluation. Decision No. 114/PUU-XX/2022 of the Constitutional Court reiterated that changes to the electoral system must be made far enough before the stages of the election, considering the improvement of the system and involving meaningful public participation. Budhiati, Prabowo, and Ermansyah argue that the KPU, as a self-regulatory body, has difficulties in transforming statutory norms into technical regulations without clear norms and sanctions.²² The legislature must provide sufficient time for academic

¹⁹ Alboin Pasaribu, "Tafsir Konstitusional atas Kemandirian Penyelenggara Pemilu dan Pilkada," *Jurnal Konstitusi* 16, no. 2 (2019): 416–442.

²⁰ Ida Budhiati, "Rekayasa Sosial Sistem Integritas Penyelenggara Pemilu," *Jurnal Hukum Sasana* 8, no. 1 (2022): 1–18.

²¹ Khairul Fahmi, Feri Amsari, Busya Azheri, and Muhammad Ichsan Kabullah, "Sistem Keadilan Pemilu dalam Penanganan Pelanggaran dan Sengketa Proses Pemilu Serentak 2019 di Sumatera Barat," *Jurnal Konstitusi* 17, no. 1 (2020): 1–26.

²² Ida Budhiati, Rian Adhivira Prabowo, and Edho Rizky Ermansyah, "Norma Tanpa Sanksi: Polemik 'Kuota Gender' dalam Undang-Undang dan Implikasinya terhadap KPU sebagai

drafts, stage simulations, technical testing, budget adjustments, implementing regulations, voter education, and transitional schemes for regional Government. Public participation must include election administrators, supervisory bodies, DKPP, political parties, civil society, academics, regional governments, women's groups, persons with disabilities, young voters, indigenous communities, and vulnerable groups. Public input cannot be a pro forma exercise; it must be taken seriously and responded to.

Through these agendas, Decision No. 135/PUU-XXII/2024 can be implemented as systemic reconstruction rather than a mere calendar change. Regional head elections must be integrated into regional elections, electoral institutions must be strengthened, residual disputes must be reduced through electoral justice, and regulation must be enacted earlier with meaningful public participation.

Conclusion

The design of simultaneous regional head elections in Indonesia has been shaped not only by legislative legal policy, but also by the Constitutional Court's judicial politics. Legislative legal policy is reflected in statutory changes governing regional head elections, while judicial politics is reflected in the Court's decisions that have interpreted, corrected, and directed the constitutional position of regional head elections within Indonesia's electoral architecture.

This judicial politics has developed dialectically. Decision No. 072-073/PUU-II/2004 positioned direct regional head elections as general elections in a material sense. Decision No. 97/PUU-XI/2013 affirmed the formal separation between general elections and regional head elections. Decisions No. 55/PUU-XVII/2019 and No. 85/PUU-XX/2022 then demonstrated conceptual reintegration based on shared principles, electoral management bodies, supervisory mechanisms, and administrative practice.

Decision No. 135/PUU-XXII/2024 marks a critical point by establishing a new architecture that separates national elections from regional elections. Under this design, national elections elect the president and vice president, the House of Representatives, and the Regional Representative Council, whereas regional elections elect regional legislative councils and regional heads. Regional head elections are therefore no longer positioned as stand-alone contests, but as part of regional elections connected to local representation and regional Government.

This reconstruction must be linked to electoral justice. The Constitutional Court, in adjudicating regional election result disputes, cannot be reduced to a forum for reviewing numerical vote results. It also functions as a final corrector of residual procedural problems affecting electoral legitimacy. Future reconstruction must therefore be directed toward a coherent regional election design, stronger electoral institutions, a tiered electoral justice system,

Self-Regulatory Body," *Electoral Governance: Jurnal Tata Kelola Pemilu Indonesia* 6, no. 1 (2024): 93–113.

and a balance among popular sovereignty, legal certainty, effective administration, and electoral justice.

Recommendation

Based on the reconstruction of the design of simultaneous regional head elections in Indonesia, future legislative policies should establish a clearer and more consistent regulatory framework that reflects the constitutional position of regional elections after the issuance of Constitutional Court Decision No. 135/PUU-XXII/2024. The legislature needs to harmonize electoral regulations by distinguishing the institutional design, electoral cycle, and administrative mechanisms of national elections and regional elections while ensuring that both remain connected within the framework of popular sovereignty. A comprehensive revision of election laws is required to prevent regulatory inconsistencies and to provide stronger legal certainty regarding the relationship between regional legislative elections and regional head elections.

Furthermore, strengthening electoral justice should become a central priority in future regional election governance. The Constitutional Court's role should be supported through the development of a more structured and tiered electoral justice system that distributes authority among election management bodies, supervisory institutions, and judicial institutions according to their respective functions. Institutional strengthening, clearer dispute resolution mechanisms, and improved procedural safeguards are necessary to ensure that regional elections are not only procedurally democratic but also substantively legitimate. Through this approach, Indonesia can achieve a regional election system that balances democratic participation, legal certainty, administrative effectiveness, and the protection of electoral justice.

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