

**LEGAL CERTAINTY AND ELECTORAL SEPARATION AFTER
DECISION 135/PUU-XXII/2024**

***KEPASTIAN HUKUM DAN PEMISAHAN PEMILU SETELAH
PUTUSAN 135/PUU-XXII/2024***

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ABSTRACT

Constitutional Court Decision Number 135/PUU-XXII/2024 has significantly reshaped the discourse on Indonesia's electoral system by mandating the separation of national and regional elections. While the ruling is presented as a constitutional effort to enhance electoral integrity and administrative effectiveness, it simultaneously raises fundamental concerns regarding legal certainty, particularly in relation to the tenure of members of the Regional People's Representative Council (DPRD). This study examines the Court's constitutional reasoning (*ratio decidendi*) underlying the separation of election schedules and critically assesses its implications for democratic legitimacy and the principle of electoral periodicity. Employing a normative juridical approach that integrates statutory, conceptual, and case-based analysis, this article demonstrates that although the decision may be justified as electoral reform, it risks producing constitutional distortion by blurring the boundary between judicial interpretation and norm creation. Without clear transitional safeguards, the ruling threatens to undermine popular sovereignty and legal certainty in Indonesia's constitutional framework.

Keywords : Constitutional Court Decision, Electoral Separation, Legal Certainty, DPRD Tenure.

ABSTRAK

Putusan Mahkamah Konstitusi Nomor 135/PUU-XXII/2024 telah secara signifikan membentuk kembali diskursus mengenai sistem pemilihan umum Indonesia dengan mewajibkan pemisahan pemilihan nasional dan daerah. Meskipun putusan ini dipresentasikan sebagai upaya konstitusional untuk meningkatkan integritas pemilu dan efektivitas administrasi, putusan ini secara bersamaan menimbulkan kekhawatiran mendasar mengenai kepastian hukum, terutama terkait masa jabatan anggota Dewan Perwakilan Rakyat Daerah (DPRD). Studi ini menelaah alasan konstitusional Mahkamah (ratio decidendi) yang mendasari pemisahan jadwal pemilihan dan menilai secara kritis implikasinya terhadap legitimasi demokratis serta prinsip periodisitas pemilihan. Dengan menggunakan pendekatan yuridis normatif yang mengintegrasikan analisis perundang-undangan, konseptual, dan berbasis kasus, artikel ini menunjukkan bahwa meskipun keputusan tersebut dapat dibenarkan sebagai reformasi pemilihan, hal itu berisiko menimbulkan distorsi konstitusional dengan mengaburkan batas antara penafsiran yudisial dan penciptaan norma. Tanpa adanya perlindungan transisi yang jelas, putusan tersebut mengancam kedaulatan rakyat dan kepastian hukum dalam kerangka konstitusi Indonesia.

Kata Kunci : Putusan Mahkamah Konstitusi, Pemisahan Pemilu, Kepastian Hukum, Masa Jabatan DPRD.

I. INTRODUCTION

Since the introduction of simultaneous elections in 2019, Indonesia has encountered several structural challenges, notably in terms of logistical complexity, electoral organizer fatigue, the predominance of national issues, and the diminished effectiveness of local electoral oversight. According to an evaluative report by the Indonesian General Elections Commission (KPU), the five-ballot simultaneous system imposed a considerable administrative burden on both election organizers and voters. (The General Election Commission of the Republic of Indonesia, 2024). Several academic studies in the past four years have also shown that the simultaneous system actually reduces the quality of regional electoral democracy because local legislative issues are drowned out by the flow of national campaigns. (Supandri, 2023). Therefore, the idea of re-separating National Elections and Regional Elections is becoming increasingly stronger in the discourse of constitutional law.

In comparative constitutional scholarship, the sequencing of elections plays a crucial role in shaping the dynamics of democratic governance. Electoral timing determines how political mandates are distributed across institutions and how political accountability operates within a constitutional system. Scholars have emphasized that electoral cycles influence the

interaction between executive authority, legislative representation, and regional autonomy.

In presidential systems, electoral synchronization is often designed to strengthen executive-legislative cooperation by producing aligned political mandates. Simultaneous elections may generate a coattail effect that enhances the president's legislative support in parliament. Conversely, the separation of election cycles may encourage differentiated political dynamics between national and subnational arenas, allowing regional political preferences to emerge more independently from national party competition.

The constitutional significance of electoral sequencing therefore extends beyond administrative considerations. Electoral timing affects the structure of party competition, the responsiveness of regional institutions, and the overall coherence of democratic governance. Because of these far-reaching implications, the design of electoral cycles is typically regarded as a matter of institutional policy that requires careful legislative deliberation and broad political consensus.

When constitutional courts intervene in electoral sequencing, their decisions may have structural consequences for democratic governance. Judicial intervention in electoral design must therefore be carefully justified through constitutional reasoning that demonstrates a clear connection between institutional reform and the protection of constitutional principles. Without such justification, judicial decisions risk being perceived not merely as constitutional interpretation but as institutional redesign.

It is in this context that the Constitutional Court Decision Number 135/PUU-XXII/2024 emerges as a very important constitutional intervention. In this decision, the Court declared that national elections (President/Vice President, House of Representatives, and Regional Representative Council) must be separated from regional elections (regional heads and Regional House of Representatives), with an interval of at least two to two and a half years between the two election cycles. This decision is framed by the Court as a constitutional necessity to safeguard the integrity of elections, enhance administrative effectiveness, and prevent conflicts of interest inherent in an overly crowded election schedule. (Rahmita et al., 2023)

However, the implications of electoral separation extend far beyond technical electoral management. Beyond administrative and managerial concerns, the debate surrounding the separation of electoral schedules must also be situated within the broader theory of constitutional design and democratic sequencing. In comparative constitutional practice, the timing of elections is not merely a procedural arrangement but constitutes a core element of democratic architecture that shapes patterns of accountability, party competition, and executive-legislative relations. The consolidation or separation of electoral cycles directly affects coattail effects, party system fragmentation, and the vertical integration between national and regional

political arenas. Therefore, the Constitutional Court's intervention cannot be viewed solely as a response to logistical fatigue; it represents a structural recalibration of Indonesia's constitutional democracy.

From the perspective of constitutional engineering, electoral simultaneity was originally justified as a mechanism to strengthen presidentialism by creating aligned mandates between the executive and legislative branches. The 2019 simultaneous election model was expected to reduce divided government and enhance governability. However, Decision 135/PUU-XXII/2024 signals a normative shift away from this consolidation logic toward a segmented democratic model. Such a shift inevitably raises doctrinal questions: does the Constitution mandate electoral simultaneity as a structural requirement of presidentialism, or does it merely require periodic elections without prescribing synchronization?

Decision 135/PUU-XXII/2024 comes amid public expectations for the strengthening of democracy, so at first glance, this decision appears to represent a progressive reform of Indonesia's electoral architecture, yet it actually leaves a significant gap in our state governance structure. Instead of becoming a catalyst for reform that purifies the electoral system, it raises deep constitutional concerns that have not been sufficiently studied in existing analyses. In particular, the separation of election schedules has serious implications for legal certainty regarding the term of office of Regional House of Representatives members.

The constitutional requirement for five-year election periodicity is at risk of being disrupted if the term of the Regional House of Representatives is extended or adjusted without a new election mandate. This tension is not merely a semantic debate; when a Constitutional Court decision no longer relies on doctrinal consistency, this development indicates a potential shift from principled constitutional adjudication toward a form of regulatory constitutional engineering that may weaken doctrinal consistency. The decision appears to prioritize pragmatic institutional stability over strict adherence to established constitutional interpretive principles, yet at the same time it undermines the fundamental principles of constitutionalism that should be upheld by the Court.

Furthermore, the issue is not confined to electoral administration but extends to the principle of constitutional supremacy. When the Court reinterprets Article 22E in a manner that alters the practical structure of representative mandates, it effectively reshapes the operational meaning of periodic elections. This transformation demands deeper scrutiny because constitutional text does not explicitly prescribe temporal separation between national and regional elections. Thus, the legitimacy of the Court's reasoning depends on whether its purposive interpretation remains within acceptable doctrinal limits or constitutes judicial norm creation.

Theoretically, such results have the potential to shift the source of legislative legitimacy from the sovereignty of the people to administrative needs, thereby weakening the foundation of representative democracy at the regional level. An analysis published by Hukumonline (2025) indicates that scenarios of extending terms of office without a legal basis are feared to create a 'constitutional distortion' because ideally, term extensions can only be achieved through legislation based on a democratic mandate. From a constitutional perspective, ultimately, the discussion regarding this ruling demands that we be critical of whether we are celebrating legal progress or lamenting the death of constitutional reasoning.

In addition, the absence of detailed transitional safeguards in the ruling generates a latent constitutional tension between reform objectives and institutional continuity. Electoral reforms, even when normatively justified, must adhere to the principle of non-retroactivity and protection of legitimate expectations. Representatives elected under a five-year mandate possess constitutionally protected tenure expectations. Any adjustment affecting that tenure must therefore meet strict standards of constitutional proportionality. This dimension has not been sufficiently elaborated in existing scholarship and forms a central concern of the present study.

Previous research has made important contributions to understanding the dynamics of election law in Indonesia, particularly regarding issues of simultaneity and election postponement. Research conducted by Gunawan, Guntara, and Abas (2024) in the *Journal of Law, Humanities, and Politics (JIHHP)* analyzed Constitutional Court Decision 135/PUU-XXII/2024 from a normative juridical approach; they highlighted the Constitutional Court's interpretation of Article 22E and the living constitution principle, and stated that the decision establishes a transitional norm in the form of a two-year gap between national and local elections. (Gunawan, G., Guntara, D., & Abas, 2025). However, this research is still descriptive in nature and has not examined the ratio decidendi or its implications for the legal certainty of legislative terms. Secondly, Almunawar (2025) in the *Civilized Law Journal* examined the legal implications of the decision using normative, jurisprudential, and comparative approaches; he found two transition schemes for the appointment of regional officials and the extension of DPRD terms, each of which has legitimacy issues. (Almunawar, 2025). However, this research is still limited because it does not examine in depth the constitutional aspects of the Constitutional Court's actions in redesigning the election architecture and does not explain in detail how the decision affects the balance of power between state institutions.

In addition, a study published in the *International Journal of Law, Constitution, and Justice* (2025) emphasized that, in decision 135/PUU-XXII/2024, the Constitutional Court functions as a "positive legislator" by significantly restructuring the national-local election framework, but in doing

so, it is considered to have compromised legal certainty and the separation of powers. This research also has weaknesses, particularly because it focuses more on theoretical constitutional criticism without providing an in-depth explanation of the administrative and practical legal consequences, such as implications for the terms of the House of Representatives/Regional House of Representatives, adjustments to the election calendar, and potential legal vacuums during the transition period. These studies are highly relevant because they depict the legal, symbolic, and constitutional aspects of the Constitutional Court's decision, but they also have limitations. (Alfattah, H., & Wardhani, 2025)

Thus, although various previous studies have provided a strong conceptual foundation and enriched academic discourse, there is still a gap in research because no one has specifically addressed the ratio decidendi of the Constitutional Court in decision 135/PUU-XXII/2024 regarding the separation of National and Regional Election schedules, nor examined its implications for legal certainty concerning the extension of the term of office of regional council members.

To situate this inquiry within broader constitutional theory, it is necessary to examine the evolving role of constitutional courts in shaping democratic institutional design. The role of constitutional courts in democratic systems has been widely debated in contemporary constitutional scholarship. While courts are entrusted with safeguarding constitutional supremacy, their authority must remain balanced with the democratic legitimacy of representative institutions. Ran Hirschl describes the increasing expansion of judicial authority as part of the broader phenomenon of the judicialization of politics, in which courts progressively assume decision-making roles traditionally exercised by elected political actors. This phenomenon is particularly visible in constitutional systems where courts engage not only in the annulment of unconstitutional laws but also in shaping institutional arrangements that affect democratic governance. Within this theoretical framework, the boundary between constitutional interpretation and institutional redesign becomes critically important. Constitutional courts are expected to function primarily as negative legislators, meaning that their authority lies in invalidating unconstitutional norms rather than constructing new regulatory frameworks. However, when judicial reasoning produces structural directives that effectively reshape institutional design, the court may begin to operate as a quasi-positive legislator.

In the context of electoral law, this distinction is especially sensitive because electoral rules determine how democratic representation is structured and how political authority is periodically renewed. Decisions affecting electoral cycles therefore have far-reaching consequences not only for administrative governance but also for democratic legitimacy itself. Consequently, constitutional adjudication in electoral matters must carefully

balance constitutional interpretation with respect for legislative competence. It is noteworthy that this decision adopts Starger's (2013) thinking, yet there has been a disregard for precedent (*stare decisis*) without strong philosophical argumentation. (Charles C. Starger, 2013).

By integrating constitutional theory, democratic accountability, and doctrinal consistency, this article positions Decision 135/PUU-XXII/2024 not merely as an electoral reform case but as a constitutional moment that tests the boundaries of judicial power in Indonesia's evolving democracy. Unlike previous studies, this article does not merely describe the constitutional shift, but critically reconstructs the *ratio decidendi* and evaluates its doctrinal coherence within Indonesia's constitutional system.

Against this background, this article seeks to answer two main research questions. First, how does the Constitutional Court formulate its *ratio decidendi* in Decision Number 135/PUU-XXII/2024 concerning the separation of the national and regional election schedules? Second, to what extent are the implications of this decision on legal certainty and the legitimacy of democracy related to the tenure of Regional House of Representatives members? By using a normative juridical method that integrates legal, conceptual, and case approaches, this study aims to reconstruct the Constitutional Court's reasoning and critically evaluate its implications for Indonesia's electoral and constitutional order.

II. METHOD

The normative juridical approach is a legal research method that relies on the study of library materials or secondary data. This approach is carried out by examining various statutory regulations as well as relevant literature as a basis for analyzing the legal issues being studied. (Soerjono Soekanto and Sri Mamudji, 2021).

This study employs a normative juridical (doctrinal) research method, which focuses on analyzing legal norms, judicial decisions, and constitutional principles through systematic interpretation of legal sources. Normative legal research is particularly appropriate for examining constitutional adjudication because it enables scholars to evaluate the coherence of judicial reasoning within the broader framework of constitutional doctrine.

The research integrates three main analytical approaches. First, a statute approach is used to examine constitutional provisions governing elections, particularly Article 1 paragraph (2), Article 18 paragraph (4), and Article 22E of the 1945 Constitution, as well as statutory regulations related to Indonesia's electoral system. Second, a case approach is applied to analyze the reasoning of the Constitutional Court in Decision Number 135/PUU-XXII/2024, including its *ratio decidendi* and its consistency with previous constitutional jurisprudence. Third, a conceptual approach is utilized to interpret relevant constitutional theories, including the principles of legal

certainty, popular sovereignty, electoral periodicity, and the doctrine of negative versus positive legislator.

In addition, this research adopts a limited comparative perspective to contextualize the Indonesian experience within broader constitutional practices in other democratic systems. Comparative analysis allows the study to evaluate whether the Constitutional Court's intervention in electoral design aligns with international constitutional principles regarding judicial restraint and institutional competence. Through the integration of doctrinal, conceptual, and comparative analysis, this study aims to provide a comprehensive evaluation of the constitutional implications arising from Decision 135/PUU-XXII/2024.

III. ANALYSIS AND DISCUSSION

a. The Constitutional Court's Ratio Decidendi in Decision 135/PUU-XXII/2024 Regarding the Separation of National and Regional Election Schedules

Constitutional Court Decision Number 135/PUU-XXII/2024 originated from a petition for judicial review challenging the constitutionality of several provisions governing the implementation of simultaneous elections. At its core, the case did not merely concern technical aspects of electoral management, but raised fundamental constitutional questions regarding the relationship between electoral design, popular sovereignty, and legal certainty. The petitioner argued that the five-ballot simultaneous election model undermined the constitutional principles enshrined in Article 1 paragraph (2), Article 18 paragraph (4), and Article 22E paragraphs (1) and (2) of the 1945 Constitution, particularly by overburdening voters and election organizers and by marginalizing regional political representation. (Dwi Astrianti Defretes, n.d.)

At first glance, this decision is polished with a narrative of procedural reform to ease the workload of election organizers, which is deemed inhumane, and to improve the quality of electability. However, when examined from the perspective of constitutional law theory, this decision raises concerns regarding potential constitutional distortion. The Court does not merely interpret the constitution, but actively dictates the technical scheduling regime that has direct implications on the party system, the terms of office of representatives, and the sovereignty rights of voters at the local level. From a doctrinal perspective, the principal constitutional issue before the Court can be framed as follows: whether the existing model of nationwide simultaneous elections constitutes an exercise of legislative discretion within the domain of *open legal policy*, or whether it has crossed the threshold into constitutional incompatibility by impairing the substantive realization of popular sovereignty and electoral integrity. This distinction is crucial, as the Constitutional Court has consistently maintained that matters falling within *open legal policy* are

generally immune from judicial intervention unless they clearly violate constitutional norms. (Marali SA, 2025)

Rather than positioning the dispute as a mere policy disagreement, the Court reframed it as a constitutional problem with systemic implications. The issue was no longer whether simultaneous elections are administratively efficient, but whether the accumulation of electoral contests in a single electoral moment undermines the constitutional quality of elections themselves. By adopting this framing, the Court elevated electoral design from a technical legislative choice to a constitutional variable directly linked to democratic legitimacy. (Apwan Riadi Parapat, 2025).

The ratio decidendi of Decision 135/PUU-XXII/2024 rests upon several interrelated constitutional premises. First, the Court reaffirmed popular sovereignty as a substantive constitutional principle rather than a purely procedural one. Elections, in the Court's view, must not only be conducted periodically, but must also meaningfully enable voters to exercise informed and effective political choice. An electoral system that overwhelms voters with multiple ballots and complex choices risks reducing popular sovereignty to a formal ritual devoid of substantive democratic value. (Mhd. Ansor Lubis, Muhammad Yasin Ali Gea, 2022)

Second, the Court treated electoral integrity as an inseparable component of constitutional democracy. The principles of direct, general, free, secret, honest, and fair elections, as stipulated in Article 22E paragraph (1) of the Constitution, were interpreted holistically. The Court reasoned that excessive electoral complexity may compromise these principles by increasing invalid votes, voter confusion, and administrative errors. In this context, electoral integrity was not assessed solely by reference to formal compliance with procedural rules, but by examining the systemic consequences of electoral design. (Muhammad Asmawi, 2023)

Third, the Court implicitly recognized administrative feasibility as constitutionally relevant. Although administrative efficiency is often viewed as a policy consideration, the Court considered the empirical realities of election management such as organizer fatigue and logistical overload as factors that can affect the constitutional quality of elections. By doing so, the Court blurred the traditional boundary between constitutional norms and administrative practicality, treating the latter as a variable capable of influencing the former. (Jurdi, 2023)

These premises collectively enabled the Court to justify judicial intervention in an area traditionally reserved for legislative discretion. However, they also laid the groundwork for broader constitutional consequences that extend beyond the immediate issue of electoral scheduling. In a sound constitutional law doctrine, the technical design of election scheduling, including the specific timing of implementation, should fall within the realm of open legal policy. This authority is absolutely owned by the

lawmakers (Parliament and Government). (Arifin et al., 2025). This authority is exclusively held by the legislators (Parliament and the Government) because it requires sociological studies and extensive absorption of public aspirations.

Through a structural approach, the Court situated elections within the broader constitutional architecture of Indonesia's presidential system and regional autonomy framework. It emphasized that electoral arrangements must support, rather than distort, the functioning of representative institutions at both national and regional levels. The separation of national and regional elections was thus framed as a mechanism to preserve structural balance within the constitutional system. (Satriansyah Den Retno Wardana, Eka N.A.M. Sihombing, 2023).

The teleological dimension of the Court's reasoning was particularly prominent. The Court interpreted constitutional provisions in light of their underlying purposes, namely the realization of effective popular sovereignty, democratic accountability, and meaningful political participation. This purposive reading aligns with the doctrine of the living constitution, which allows constitutional interpretation to adapt to evolving democratic challenges.

However, the extensive reliance on purposive reasoning raises an important doctrinal question: whether the Court remained within the interpretative limits of a negative legislator, or whether it effectively engaged in normative redesign. By prescribing a specific temporal interval between national and regional elections, the Court moved beyond abstract constitutional interpretation toward quasi-regulatory guidance, thereby stretching the boundaries of judicial interpretation.

The logical structure of the Court's reasoning can be reconstructed in five stages. First, the Court identified systemic problems arising from the five-ballot simultaneous election model, including voter fatigue, administrative overload, and diminished quality of democratic participation. (Heroik Mutaqin Pratama, 2021). Second, it established the constitutional relevance of these problems by linking them to the erosion of electoral principles guaranteed by the Constitution. Third, the Court concluded that electoral separation constitutes a constitutionally acceptable solution to mitigate these systemic risks.

Fourth, the Court articulated a normative directive by determining that national elections and regional elections must be separated by a minimum interval of two to two and a half years. This step marked a significant transition from constitutional diagnosis to prescriptive guidance. (ahmad ari fatullah & Meladiah, 2025). Fifth, and most critically, the Court did not provide a clear constitutional framework for managing the transitional consequences of this separation, particularly concerning the tenure of DPRD members. This absence of transitional clarity represents a logical gap in the Court's reasoning. (Ilhami, 2025). While the separation of elections is justified

as a constitutional remedy, the implications of that remedy for electoral periodicity and legislative legitimacy were not fully addressed. As a result, the ratio decidendi resolves one constitutional problem while simultaneously generating another.

The consistency of Decision 135/PUU-XXII/2024 with previous Constitutional Court jurisprudence requires careful examination. In Decision Number 55/PUU-XVII/2019, the Court explicitly recognized various models of simultaneous elections that are constitutional and emphasized legislative discretion in determining the design of elections. That decision stressed judicial restraint and reaffirmed the doctrine of open legal policy. In contrast, Decision 135/PUU-XXII/2024 indicates a significant shift. Although the Court formally recognizes legislative authority, it simultaneously imposes substantive constitutional limits and time parameters that significantly narrow legislative discretion. This evolution indicates an expansion of judicial authority from constitutional review toward constitutional engineering. This development may be situated within the broader phenomenon described by Hirschl as the “judicialization of politics,” where courts progressively assume roles traditionally reserved for elected institutions, thereby reshaping the balance of democratic governance.(Hirschl, 2024).

An important issue arising from Decision 135/PUU-XXII/2024 concerns the institutional limits of constitutional adjudication. Constitutional courts are designed primarily as guardians of constitutional supremacy, ensuring that legislative and executive actions remain consistent with constitutional norms. Their legitimacy derives from their role as interpreters of the constitution rather than as architects of public policy.

Within classical constitutional theory, courts are often described as “negative legislators.” This concept, originally articulated by Hans Kelsen, emphasizes that constitutional courts possess the authority to invalidate unconstitutional statutes but not to create new normative frameworks that replace legislative policy choices. The doctrine reflects a fundamental principle of separation of powers: while courts interpret constitutional norms, the design of public policy remains within the domain of democratic institutions.

However, the reasoning adopted in Decision 135/PUU-XXII/2024 appears to move beyond this traditional framework. By prescribing a specific temporal interval between national and regional elections, the Court effectively introduced a structural parameter that will shape future legislative decisions. Although the Court did not directly legislate electoral rules, its directive substantially narrows the range of policy options available to the legislature.

This development illustrates the evolving role of constitutional adjudication in contemporary democracies. While judicial intervention may be justified in order to protect constitutional values, it simultaneously raises

questions regarding the appropriate limits of judicial authority. Maintaining a clear boundary between constitutional interpretation and institutional design is therefore essential for preserving the balance between judicial review and democratic governance.

The phenomenon of judicialization of politics has become increasingly visible in many constitutional democracies, particularly in areas related to electoral governance. As courts gain greater authority in constitutional review, judicial decisions frequently shape not only the interpretation of constitutional norms but also the institutional arrangements through which democratic processes operate.

In the context of electoral governance, judicialization often occurs when courts intervene to correct perceived deficiencies in electoral laws or administrative practices. While such intervention may enhance the protection of constitutional rights, it also raises concerns regarding the appropriate limits of judicial power. Electoral system design typically involves complex political considerations, empirical assessments, and negotiations among political actors. These processes traditionally fall within the legislative domain rather than the judicial sphere.

When courts prescribe detailed institutional arrangements, such as electoral schedules or electoral system structures, judicial decisions may begin to resemble legislative policymaking. Scholars have therefore warned that excessive judicial involvement in electoral design may create tensions with the principle of separation of powers. Courts must balance their responsibility to uphold constitutional principles with the need to respect the democratic legitimacy of legislative decision-making.

From this perspective, the Constitutional Court's decision to mandate the separation of national and regional elections represents an important example of judicialization within electoral governance. Although the decision aims to address systemic electoral challenges, it simultaneously illustrates the expanding influence of constitutional adjudication in shaping democratic institutional design.

The phenomenon observed in Decision 135/PUU-XXII/2024 may also be examined through the lens of constitutional role transformation. Traditionally, the Constitutional Court of Indonesia has positioned itself as a guardian of constitutional supremacy through annulment of unconstitutional statutes. However, in this case, the Court not only invalidated certain interpretations but actively structured future institutional arrangements. This indicates a transition from corrective adjudication to constructive constitutional design. (Kurniawan et al., 2025)

Such transformation raises an institutional competence question. Electoral system design typically requires empirical assessment, political negotiation, and long-term policy evaluation—processes that belong to the legislative domain. Courts, by contrast, operate within adversarial

proceedings and are limited to constitutional argumentation presented by the parties. When judicial reasoning extends into detailed temporal prescriptions, the risk emerges that constitutional interpretation becomes intertwined with policy preference.

Moreover, the Court's reliance on the living constitution doctrine must be critically assessed. While adaptive interpretation is necessary in dynamic democracies, it must remain anchored to textual plausibility and structural coherence. An interpretation that substantially reorders electoral architecture without explicit constitutional command risks weakening predictability in constitutional adjudication. Predictability is a core component of legal certainty, especially when constitutional courts serve as final arbiters whose decisions are binding and unappealable.

Therefore, the central issue is not whether electoral separation is normatively desirable, but whether the method adopted by the Court aligns with constitutional adjudicative limits. This distinction is crucial for maintaining doctrinal integrity and preventing gradual expansion of judicial authority into domains constitutionally reserved for representative institutions.

b. Implications of Constitutional Court Decision Number : 135/PUU-XXII/2024 on Legal Certainty Regarding The Extension of the Term of Office of DPRD Members

Legal certainty constitutes a foundational principle of the rule of law and serves as a prerequisite for democratic accountability. The principle of electoral periodicity represents one of the fundamental safeguards of democratic constitutionalism. Periodic elections ensure that political authority remains continuously accountable to the electorate and that representatives derive their legitimacy from regularly renewed public consent. In modern constitutional democracies, electoral cycles are therefore not merely administrative arrangements but constitutional guarantees that structure the relationship between citizens and political institutions.

Legal scholars have long emphasized that electoral periodicity functions as a mechanism for maintaining democratic accountability. Regular elections allow citizens to evaluate the performance of elected officials and to either reaffirm or withdraw their political mandate. Without such periodic mechanisms, representative institutions risk losing their democratic legitimacy because political authority would no longer be subject to continuous electoral evaluation. (Anna Młynarska-Sobaczewska & Zaleśny, 2024)

In constitutional systems that explicitly regulate electoral timelines, the principle of legal certainty requires that the duration of representative mandates be clearly defined and consistently applied. Predictability regarding the timing of elections enables political actors, governmental institutions, and

citizens to organize political participation within a stable constitutional framework. Any deviation from established electoral cycles therefore requires strong constitutional justification, as it directly affects the legitimacy of representative institutions.

Within the Indonesian constitutional framework, Article 22E of the 1945 Constitution establishes that elections must be conducted periodically every five years. This provision reflects the constitutional commitment to maintaining a stable and predictable democratic cycle. When electoral schedules are modified in ways that potentially extend or shorten representative mandates, the principle of electoral periodicity becomes directly implicated. Consequently, the constitutional debate surrounding Decision 135/PUU-XXII/2024 must also be examined through the lens of electoral periodicity and democratic legitimacy.

Within a constitutional democracy, legal certainty requires that legal norms governing political power be clear, predictable, and stable, particularly those relating to the acquisition and duration of public office. In the context of representative institutions, electoral periodicity functions as a concrete manifestation of this principle by ensuring that political authority is periodically renewed through popular consent.

Theoretically, in the regulation of terms of office, periodization reflects the constitutional expectation that elected officials obtain their legitimacy exclusively from elections held at regular intervals. Any deviation from this cycle, whether through extension or premature termination of the term, must be justified with clear constitutional authorization. Without such authorization, deviations risk undermining both legal certainty and democratic legitimacy. (Sahidin et al., 2024).

Decision 135/PUU-XXII/2024 disrupts this constitutional equilibrium by separating national and regional election schedules without providing a clear constitutional framework for maintaining the five-year tenure of DPRD members. While the separation of elections may enhance administrative efficiency and democratic focus, its implications for electoral periodicity introduce uncertainty regarding the lawful duration of regional legislative mandates. (Defretes & Kleden, 2023).

Under the previous simultaneous election model, the terms of DPRD members naturally aligned with the national electoral cycle, ensuring compliance with the five-year constitutional mandate. The separation of election schedules, however, creates a temporal mismatch between the expiration of DPRD terms and the timing of subsequent regional elections.

In practical terms, this mismatch opens the possibility of extending DPRD terms beyond their original electoral mandate. From a constitutional standpoint, such an extension constitutes a serious problem. The DPRD is a representative institution whose legitimacy derives solely from popular elections. Extending its term without a new electoral mandate effectively

transforms the basis of its authority from electoral consent to administrative necessity. This shift is constitutionally problematic, as it weakens the principle of popular sovereignty enshrined in Article 1 paragraph (2) of the Constitution. (Purnomo, 2022)

The potential extension or adjustment of DPRD tenure also implicates the doctrine of electoral mandate theory. Within representative constitutional systems, mandates are temporally bounded authorizations derived from voters. The five-year cycle is not merely administrative scheduling; it constitutes a democratic contract between electorate and representative. Altering that cycle without direct electoral reaffirmation risks diluting the contractual nature of representation.

Furthermore, extending the term of office without elections reduces democratic accountability. The periodicity of elections serves as a mechanism through which voters can assess, sanction, or reaffirm their representatives. When this mechanism is suspended or postponed, representatives remain in office without new consent, thereby eroding the democratic control that elections are supposed to guarantee. (Sahidin IA, Sibuea H, 2024). In this sense, the potential extension of the regional parliament's term is not merely a technical adjustment, but a substantial change in the constitutional relationship between the people and their representatives.

The aquo decision also implicitly delegates responsibility for regulating transitional provisions to the legislative body. This delegation raises significant concerns about moral hazard and conflicts of interest. The national legislative body (the House of Representatives), as a representative body with its own electoral interests, will be tasked with regulating the extension or adjustment of the terms of office of Regional House of Representatives (DPRD) members of an institution with a similar representative character. This regulation creates an inherent conflict of interest. Legislators are placed in a position to determine rules that may directly or indirectly affect the duration of their own political power or the political power of their allies at the regional level. From the perspective of constitutional theory, such self-regulation undermines the integrity of the legislative process and weakens the system of checks and balances. (Mardianto k, 2025)

The risk of moral hazard is particularly acute where term extensions can be justified on administrative grounds. Without strict constitutional limits, temporary measures may evolve into normalized practices, gradually eroding the principle of electoral periodicity. In this context, administrative convenience risks becoming a pretext for constitutional deviation, thereby undermining public trust in representative institutions. (Putri et al., 2025)

Additionally, constitutional stability requires coherence between normative command and institutional practice. Article 22E of the 1945 Constitution stipulates periodic elections every five years. Even if the Court does not explicitly authorize tenure extension, the structural consequences of

its ruling create interpretive ambiguity. Such ambiguity may invite legislative experimentation that stretches constitutional boundaries under the justification of compliance with judicial directives. (Paulo Roberto Barbosa Ramos, Pedro Nilson Moreira Viana, David Elias Cardoso Câmara, 2023).

Traditionally, the Constitutional Court is conceptualized as a negative legislator, whose primary function is to annul unconstitutional norms rather than to create new ones. This doctrine is intended to preserve the separation of powers by confining judicial authority to constitutional interpretation and review. In Decision 135/PUU-XXII/2024, however, the Court's role appears to extend beyond these traditional boundaries. (Fikriya et al., 2024)

By prescribing a specific temporal interval between national and regional elections and by signaling the need for legislative regulation of transitional arrangements, the Court effectively engaged in normative guidance with regulatory implications. While the Court did not explicitly legislate term extensions, its decision created a constitutional environment in which such extensions became a foreseeable and perhaps unavoidable outcome.

This development suggests a shift toward a quasi-positive legislator role. The Court's intervention not only invalidated certain interpretations of existing norms but also structured future legislative choices in a manner that significantly constrains democratic deliberation. Such judicial involvement raises questions about institutional competence and democratic legitimacy, particularly when judicially driven reforms generate constitutional dilemmas that must be resolved through politically sensitive legislation. (Lahaji & Maulasa, 2023)

From the standpoint of rule-of-law theory, uncertainty regarding tenure duration can generate cascading institutional effects. Budget cycles, regional policy planning, and executive-legislative coordination depend on predictable legislative terms. A transitional vacuum not clearly regulated may produce fragmented legitimacy across regions, particularly if different provinces experience varying transitional arrangements.

The next theoretical criticism targets constitutional anomalies, the ruling generates interpretive space for discussions concerning potential adjustments or extensions of DPRD tenure, thereby introducing constitutional uncertainty that requires careful legislative response. In fact, the mandate of Article 22E is very absolute, stating that elections are held periodically every five years. When the Court issues a ruling that forces administrative adjustments even to the extent of violating the constitutional five-year timeframe, the principle of fair legal certainty is sacrificed. This is a form of structural engineering that potentially limits the electorate's opportunity to periodically reassess and renew representative mandates the people's right to regularly evaluate their representatives and introduces the risk of constitutional distortion.

Furthermore, constitutional democracies require symmetrical accountability: citizens must periodically evaluate representatives, and

representatives must anticipate electoral judgment. Extending tenure disrupts this symmetry and may reduce electoral responsiveness. Even temporary extensions can create precedent, and precedent in constitutional practice tends to normalize exceptional measures. (Hatim et al., 2024)

Constitutional distortion occurs when reforms aimed at enhancing democratic governance inadvertently weaken core constitutional principles. In this case, electoral reforms risk undermining legal certainty, popular sovereignty, and the separation of powers by allowing representative mandates to be altered without direct electoral authorization. The distortion lies not in the reform's objectives themselves, but in the methods and institutional pathways through which the reforms are implemented. Thus, although this Decision can be defended as a necessary response to systemic electoral challenges, its implications for the tenure of the Regional House of Representatives highlight the dangers of judicially driven reforms without a comprehensive constitutional framework. (Fatih & Nur, 2023). Without explicit transitional norms based on constitutional principles, this decision risks turning electoral reform into a source of democratic and legal uncertainty, rather than the consolidation of democracy.

Consequently, the absence of a constitutionally grounded transitional framework in Decision 135/PUU-XXII/2024 represents not merely a technical omission but a structural vulnerability. If not carefully regulated through legislation strictly aligned with constitutional text, the reform risks evolving from democratic correction into constitutional distortion

Overall, Decision 135/PUU-XXII/2024 fails to stand as an instrument of comprehensive democratic reform, and instead manifests as a systemic distortion. The reasoning built by the Court is overly dominated by technocratic pragmatism, and ignores the fundamentals of constitutional morality. When the constitution is twisted to accommodate experimental institutional designs without proper legislative discourse, Such judicial intervention raises questions regarding whether the decision ultimately strengthens democratic constitutionalism or instead complicates institutional balance. This decision rather confirms the shift in the Constitutional Court's role from a protector of citizens' constitutional rights to a designer of centralized political engineering.

Comparative constitutional experience offers important insights into how democratic systems regulate electoral cycles and manage institutional transitions. In many presidential democracies, the synchronization or separation of national and subnational elections has been shaped through legislative deliberation rather than judicial prescription. In Germany, for instance, federal and state elections are intentionally held at different times in order to preserve the autonomy of regional political dynamics. However, the determination of electoral timing remains firmly within the competence of the legislature, reflecting the principle that electoral design constitutes a matter

of democratic policy rather than judicial regulation.(M. Mohsin Alam Bhat, 2021)

Similarly, in India, debates regarding the “One Nation, One Election” proposal illustrate the complexity of electoral synchronization. Although the issue has attracted extensive political and academic debate, the Indian Supreme Court has refrained from mandating structural electoral reforms through judicial decisions. Instead, the Court has emphasized the importance of parliamentary deliberation in determining electoral arrangements.(Drugda, Simon; Albert, Richard; Landau, David; Faraguna, 2019).

Experiences from several Latin American constitutional systems further illustrate the challenges associated with judicial intervention in electoral design. In countries such as Brazil and Colombia, constitutional courts have occasionally intervened in electoral regulations, particularly when electoral laws were considered incompatible with constitutional principles of equality or democratic participation.

However, even in these jurisdictions, courts have generally exercised caution when addressing issues related to electoral scheduling. Electoral calendars are usually determined through legislative processes involving political negotiation and institutional consensus. Judicial intervention tends to focus on protecting electoral rights rather than redesigning the structure of electoral cycles themselves.

These comparative experiences highlight an important institutional principle: courts may play a crucial role in safeguarding constitutional values within electoral systems, yet the structural architecture of electoral governance typically remains within the competence of democratic institutions. When courts assume a more active role in institutional design, the boundary between constitutional adjudication and political governance may become increasingly blurred. These comparative examples highlight an important constitutional principle: while courts may review electoral laws for constitutional compliance, comprehensive restructuring of electoral architecture is generally undertaken through democratic legislative processes. When courts prescribe specific electoral timelines or institutional arrangements, such interventions may risk expanding judicial authority beyond traditional adjudicative functions.

From this perspective, Decision 135/PUU-XXII/2024 represents a relatively assertive form of constitutional adjudication. By determining a specific temporal interval between national and regional elections, the Constitutional Court moved beyond the role of invalidating unconstitutional norms and entered the domain of institutional design. This development raises broader questions regarding the appropriate limits of judicial power within Indonesia’s constitutional democracy.

IV. CONCLUSION

Constitutional Court Decision Number 135/PUU-XXII/2024 represents a significant constitutional intervention in Indonesia's electoral system by mandating the separation of national and regional elections. Through a purposive and structural interpretation of Article 22E of the 1945 Constitution, the Court constructed its ratio decidendi on the premise that electoral design directly affects the substantive realization of popular sovereignty and electoral integrity. The decision reflects a shift from a purely formal understanding of simultaneity toward a constitutional evaluation of democratic quality, thereby justifying judicial intervention in an area traditionally regarded as legislative policy.

However, this study demonstrates that the Court's reasoning also generates serious constitutional implications for legal certainty, particularly regarding the tenure of Regional People's Representative Council (DPRD) members. The separation of election schedules creates a temporal misalignment with the constitutionally guaranteed five-year electoral cycle, opening the possibility of extending DPRD terms without a renewed electoral mandate. Such extensions risk transforming the basis of legislative legitimacy from popular consent to administrative necessity, thereby weakening democratic accountability and the principle of electoral periodicity.

Moreover, by prescribing a specific electoral interval and implicitly delegating the regulation of transitional arrangements to the legislature, the Constitutional Court has moved beyond its traditional role as a negative legislator toward a quasi-positive legislator. This shift introduces the risk of moral hazard and conflicts of interest within the legislative process and blurs the constitutional boundary between adjudication and norm creation. Consequently, while Decision 135/PUU-XXII/2024 may be defended as an electoral reform, it simultaneously carries the potential for constitutional distortion if its transitional consequences are not addressed through clear, constitutionally grounded regulation. Ensuring that electoral reform strengthens rather than undermines democratic legitimacy therefore requires strict adherence to legal certainty, popular sovereignty, and the separation of powers.

Beyond the immediate issue of electoral scheduling, Decision 135/PUU-XXII/2024 raises broader questions concerning the evolving relationship between constitutional adjudication and democratic governance in Indonesia. Constitutional courts inevitably play a central role in safeguarding constitutional principles, yet their authority must remain anchored to doctrinal consistency and institutional restraint.

Electoral reform is undoubtedly necessary to address the practical challenges experienced during simultaneous elections. Nevertheless, institutional reforms must be implemented in a manner that preserves the foundational principles of constitutional democracy, including legal certainty,

popular sovereignty, and the separation of powers. When judicial intervention produces structural changes without clear transitional safeguards, the resulting uncertainty may undermine the very democratic values the reform seeks to protect.

For this reason, future legislative responses to Decision 135/PUU-XXII/2024 must carefully design transitional arrangements that ensure the continuity of electoral legitimacy while respecting constitutional requirements regarding electoral periodicity. Transparent and constitutionally grounded legislative regulation is essential to prevent potential distortions arising from the separation of electoral cycles.

Ultimately, the long-term impact of this decision will depend not only on the Court's reasoning but also on how democratic institutions respond to the constitutional challenges it has created. If managed carefully, the reform may contribute to improving the quality of Indonesia's electoral system. However, without a clear constitutional framework, the reform risks generating uncertainty that could weaken democratic accountability and public trust in representative institutions.

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