



JUDICIAL BOLDNESS OR DEMOCRATIC NECESSITY? THE CONSTITUTIONAL COURT'S BREAKTHROUGH IN REDESIGNING ELECTIONS

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Abstrack

The five-ballot simultaneous election model used in Indonesia's 2019 and 2024 general elections has generated structural and technical complexities that raise constitutional concerns regarding the quality of electoral democracy. By combining the presidential election with elections for the DPR, DPD, Provincial DPRD, and Regency/Municipal DPRD on the same day, this model has been associated with administrative burdens, voter confusion, and challenges for political representation, party institutionalization, and the presidential system. In Decision No. 135/PUU-XXII/2024, the Constitutional Court declared this model unconstitutional and proposed a two-tier election system separating national and regional elections by a two-year interval. This study examines and critically assesses the Constitutional Court's constitutional reasoning in Decision No. 135/PUU-XXII/2024, with particular attention to its implications for the institutional design of Indonesia's electoral system. Using a normative-legal method with statutory, case, and conceptual approaches, the article assesses whether the decision is constitutionally persuasive and consistent with separation of powers and legal certainty. It also considers possible criticisms, including the limits of judicial authority, judicial overreach, and transitional challenges. The analysis suggests that the two-tier election model may offer a constitutionally persuasive compromise between the effectiveness of the presidential system and the principle of popular sovereignty, although its superiority over other constitutionally feasible alternatives remains open to critical evaluation.

INTRODUCTION

General elections serve as the principal instrument for realizing the principle of popular sovereignty (Fikri et al., 2022), as enshrined in Article 1 (2) of the Constitution of the Republic of Indonesia (UUD NRI 1945), which stipulates that “sovereignty rests with the people and is exercised under the Constitution.” Elections function as an institutional mechanism for transferring political legitimacy from the people to public officials at both the executive and legislative levels (Fikri et al., 2023). As a fundamental pillar of constitutional democracy, elections ensure citizen participation and the accountability of political power. This is reaffirmed in Article 22E (1) of the 1945 Constitution, which provides that “general elections shall be conducted directly, publicly, freely, confidentially, honestly, and fairly every five years.” However, since the adoption of the five-ballot simultaneous election model (Mas`udah, 2022; Indradjaja et al., 2022), as regulated under Articles 167 (3) and 347 (1) of Law No. 7 of 2017 on General Elections, the administration of elections in Indonesia has encountered a new level of structural and operational complexity. This model consolidates elections for the House of Representatives (DPR), Regional Representative Council (DPD), Provincial Legislative Councils (DPRD Provinsi), Regency/Municipal Legislative Councils (DPRD Kabupaten/Kota), and the President and Vice President into a single day of voting. The legal basis for this simultaneous format is further reinforced by Article 3 (1) of Law No. 8 of 2015, which mandates that regional head elections also be conducted simultaneously. In practice, this five-ballot system has generated extraordinary administrative and logistical burdens for electoral management bodies and has led to significant voter confusion (Mariska & Kusmanto, 2020), which in turn has contributed to a high rate of invalid ballots (Arka & Widnyani, 2020). On the other hand, the complexity of simultaneous elections has also constrained political parties’ capacity for meaningful cadre development and substantive candidate selection.

The experiences of the 2019 and 2024 five-ballot simultaneous election format normatively suggest that this model has the potential to place significant pressure on national and regional election management systems and may adversely affect the overall quality of electoral democracy (Wahdini, 2022). The overlapping of electoral schedules for national and regional offices may distort the institutionalization of political parties, exacerbate transactional political practices, and undermine the vertical coherence of national development planning, which ideally should be aligned between central and regional governments.

Empirical materials from official institutions show that the consequences of the five-ballot simultaneous election model should be described in a more specific and measurable manner. First, with regard to organizer workload, Ministry of Health data recorded 527 election officers dead and 11,239 ill in the aftermath of the 2019 election (Kemenkes RI, 2019), while by 18 February 2024 the government recorded 84 deaths among election personnel despite the introduction of health-screening mitigation measures (Kemenkes RI, 2024). Second, with regard to ballot complexity, the KPU’s evaluation of the 2019 simultaneous election recorded 17,503,953 invalid DPR ballots (11.12%) and 29,710,175 invalid DPD ballots (19.02%) (KPU, 2019). In the 2024 election, the KPU fact sheet

recorded 15,883,845 invalid DPR ballots and 4,194,536 invalid presidential ballots (KPU, 2024). Third, with regard to party-system output, official KPU data indicate that nine political parties passed the parliamentary threshold in 2019 (KPU, 2019), whereas only eight parties did so in 2024 (KPU, 2024). These figures do not by themselves settle the constitutional question, but they do show that the five-ballot format repeatedly generated heavy administrative burdens, large numbers of invalid ballots, and measurable consequences for electoral outcomes.

On that basis, normative claims concerning declining representation quality, weakened party institutionalization, or the broader deterioration of electoral democracy should be presented as analytical assessments derived from those empirical findings, rather than as empirical facts already established in a self-evident manner. This distinction is important so that the article clearly separates measurable election data from the author's constitutional evaluation of those data. These adverse effects, in turn, raise fundamental questions regarding the compatibility of the five-ballot simultaneous election format with the core democratic principles enshrined in the Constitution.

Beyond administrative overload and voter confusion, debates on electoral design must also be assessed through the lens of *constitutional political rights* and the structure of representation. Mukhlis et al. (2023), in their analysis of the closed-list proportional model, underline that the configuration of the electoral system can generate constitutional consequences—particularly when system design narrows meaningful political access and weakens the linkage between voters and representation, potentially implicating the constitutional guarantee of citizens' participation in the political process. In parallel, Mukhlis et al. (2024) argue that Indonesia's post-amendment constitutional framework continually faces contestation over the division of governmental authority between the centre and the regions, requiring coherent legal reform to ensure that decentralization operates effectively and consistently with the 1945 Constitution. These insights strengthen the argument that the Constitutional Court's two-tier election framework should be understood not merely as a technical scheduling adjustment, but as a constitutional-structural intervention aimed at improving representational quality while maintaining centre-regional coherence within Indonesia's decentralized constitutional order.

Accordingly, the Constitutional Court, acting as both the guardian of the Constitution and the guardian of democracy, has once again asserted its central role through Decision No. 135/PUU-XXII/2024. This ruling affirms the necessity of separating national and regional simultaneous elections as a means of realizing a more substantive exercise of popular sovereignty, in alignment with the principles of elections as stipulated in Articles 22E (1) and 22E (5) of the 1945 Constitution of the Republic of Indonesia. The Constitutional Court has demonstrated its judicial courage as a positive constitutional interpreter, interpreting constitutional provisions in light of the empirical realities of Indonesia's electoral democracy.

This article examines and evaluates the constitutional reasoning of Constitutional Court Decision No. 135/PUU-XXII/2024 and its implications for the design of Indonesia's electoral system. Rather than presuming the correctness of the decision from the outset,

this article evaluates both the strengths and the possible limits of the Court's reasoning, including its approach to judicial review, the adequacy of its ratio decidendi, and the constitutional feasibility of alternative electoral models.

In that context, the article does not treat the separation of national and regional elections as self-evidently ideal or as the only constitutionally valid option. Instead, it analyzes whether the two-tier model is more persuasive than other constitutionally possible arrangements when measured against several constitutional parameters, including the effectiveness of presidentialism, the quality of representation, the administrative burden of elections, legal certainty, and the protection of voting rights. Through this analytical framework, the article seeks to determine whether the Court's solution should be understood as constitutionally convincing, constitutionally debatable, or only one among several permissible constitutional choices.

Previous studies have discussed the Constitutional Court's role as a positive legislator or constitutional interpreter, as well as earlier election-related decisions such as Decision No. 14/PUU-XI/2013 and Decision No. 55/PUU-XVII/2019. However, the existing literature has not sufficiently examined Decision No. 135/PUU-XXII/2024 as a distinct constitutional moment that raises a more specific problem: the extent to which the Court may legitimately formulate a detailed election design while still remaining faithful to the constitutional text, the principle of separation of powers, and the demands of legal certainty.

Accordingly, the contribution of this article lies in offering a more focused constitutional evaluation of Decision No. 135/PUU-XXII/2024, not only by explaining the Court's reasoning in relation to popular sovereignty, electoral principles, and the presidential system, but also by testing that reasoning against possible criticisms concerning judicial authority, institutional transition, and the stability of Indonesia's electoral framework.

METHOD

This article employs a normative-juridical method by analysing legal norms contained in the 1945 Constitution, statutory regulations, Constitutional Court decisions, and relevant legal doctrines concerning electoral design and constitutional review. Legal materials were collected through literature study and document tracing, then selected based on their relevance to the constitutional issues of electoral simultaneity, democratic functionality, and legal certainty. The primary legal materials consist of the 1945 Constitution, Law Number 7 of 2017 on General Elections, Law Number 10 of 2016 concerning Regional Head Elections, Law Number 24 of 2003 on the Constitutional Court as amended, Law Number 12 of 2011 as amended, and Constitutional Court Decision Number 135/PUU-XXII/2024 as the main object of analysis.

This study also uses Constitutional Court Decision Number 102/PUU-VII/2009, Decision Number 14/PUU-XI/2013, and Decision Number 55/PUU-XVII/2019 as comparative decisions to examine the development and consistency of the Court's reasoning on electoral rights and simultaneity. Secondary legal materials include journal

articles and legal scholarship on constitutional interpretation, judicial activism, electoral systems, and constitutional democracy.

The analysis applies the statute approach, case approach, and conceptual approach. Legal materials are analysed qualitatively through legal interpretation and doctrinal analysis. In examining Decision Number 135/PUU-XXII/2024, this article identifies the Court's constitutional reasoning primarily through its ratio decidendi, while obiter dicta are used only as supporting considerations where relevant. The constitutional arguments are traced from the constitutional provisions cited by the Court, the principles relied upon in the judgment, the interpretive approach used by the Court, and the connection between empirical electoral problems and constitutional norms.

RESULT AND DISCUSSION

The Constitutional Court's Interpretive Authority and the Debate on Its Normative Effects

As a judicial body established under the UUD NRI 1945, the Constitutional Court holds the principal authority to safeguard the purity of constitutional norms through the mechanism of judicial review of statutes against the Constitution (Riqiey, 2023a). This authority is explicitly affirmed in Article 24C (1) of the 1945 Constitution, which states: "The Constitutional Court shall have the authority to adjudicate at the first and final instance, the decision of which shall be final, to conduct judicial review of laws against the Constitution." This provision is further elaborated in Article 10 (1) a of Law No. 24 of 2003 on the Constitutional Court, as most recently amended by Law No. 7 of 2020, which reiterates that the Court has the authority to adjudicate at the first and final instance with final decisions in cases involving "judicial review of laws against the UUD NRI 1945." Based on these legal norms, the Constitutional Court undeniably holds the authority to review statutes and to provide constitutional interpretation. However, whether such interpretive practice remains within the limits of constitutional adjudication or moves into the domain of norm creation remains a contested issue in Indonesian constitutional scholarship. In this capacity, the Court has demonstrated its ability to interpret the Constitution progressively in response to changing socio-political dynamics and the needs of constitutional democracy (Nugraha et al., 2020). The Constitutional Court thus possesses the authority to interpret provisions of statutory law that are ambiguous, open to multiple interpretations, or create potential for deviation from the fundamental principles of the Constitution.

Yet such authority is not without constitutional limits. In constitutional adjudication, the central issue is not merely whether the Court may interpret a norm, but whether such interpretation remains within the boundaries of clarifying constitutional meaning or instead transforms into the creation of new normative arrangements, which constitutionally belong to the legislature. This concern is reflected in Indonesian scholarship criticizing the tendency of the Constitutional Court to act as a *positive legislature*, thereby blurring the separation of powers (Kurnia, 2016). This distinction is important because the doctrine of the Constitutional Court as a negative legislator traditionally confines the Court to reviewing constitutionality, whereas detailed institutional design ordinarily belongs to the law-making process. Accordingly, the Court's progressive role must be assessed with caution. Judicial

creativity may indeed be justified when it is necessary to fill a legal vacuum or to prevent constitutional violations, as part of the Constitutional Court's function to uphold constitutional supremacy and ensure justice. However, such creativity becomes problematic when it exceeds its adjudicative function and begins to produce new normative rules that effectively replace legislative policy choices. In this context, excessive judicial activism risks blurring the boundary between judicial and legislative powers, thereby undermining the principle of separation of powers and democratic legitimacy (Liswana et al., 2025).

The Constitutional Court's authority to actively interpret the Constitution should be understood in the sense that the Court is the final and authoritative interpreter in constitutional adjudication, particularly in the judicial review of statutes against the Constitution, rather than the holder of an exclusive monopoly over constitutional meaning in all constitutional spheres (Triningsih & Augustine, 2019). This principle has been affirmed through various scholarly and jurisprudential sources (Hapsoro & Ismail, 2020; Saragih et al., 2024; M. M. Ali et al., 2016). In several judicial precedents, the Constitutional Court has not only declared legal norms to be absolutely unconstitutional or conditionally unconstitutional, but has also recognized conditionally constitutional norms, provided they are interpreted under the meaning ascribed by the Court itself. At this point, an analytical distinction is necessary. Constitutional interpretation refers to the Court's effort to determine the meaning of constitutional and statutory provisions in adjudicating a concrete review case (M. M. Ali et al., 2016). A conditionally constitutional or conditionally unconstitutional decision, meanwhile, preserves or invalidates a statutory norm only insofar as it is tied to a specific constitutional meaning articulated by the Court. By contrast, the broader law-making effects of a judicial ruling arise when the decision substantially restructures legal policy or compels the adoption of a new regulatory design. These categories should not be conflated. While all three may emerge in constitutional adjudication, they differ in both doctrinal basis and institutional consequence. Maintaining this distinction is essential in order to avoid overstating the Constitutional Court's authority beyond its adjudicative mandate.

In several decisions, the Constitutional Court has adopted interpretive techniques that produce broader normative effects, particularly in conditionally constitutional and conditionally unconstitutional rulings (Oktavinanda, 2018). However, such effects should be analytically distinguished from law-making in the formal legislative sense, because the Court remains bound by its constitutional function of reviewing statutes against the Constitution rather than replacing the legislature's primary authority to enact general norms.

Nevertheless, this interpretive legislative function should not automatically be equated with an unlimited competence to formulate electoral policy. The more specific and technical the norm created by the Court, the stronger the argument that the matter falls within the sphere of legislative policy, particularly where the Constitution itself does not prescribe a single detailed institutional model (Sinaulan & Saputra, 2023). In such situations, academic scrutiny is necessary to determine whether the Court is still deriving implications from constitutional principles or whether it has entered the field of open legal

policy that should remain primarily with the elected law-maker. A balanced reading of the Court's jurisprudence therefore requires acknowledging both sides: the Court may act progressively to secure constitutional rights, yet it must also avoid collapsing the distinction between constitutional review and legislative design.

This authority is reaffirmed in Article 9 (1) of Law No. 12 of 2011 on the Formulation of Laws and Regulations, as amended by Law No. 13 of 2022, which provides that "in the event a law is alleged to conflict with the Constitution of the UUD NRI 1945, the review shall be conducted by the Constitutional Court." Accordingly, if a statutory provision contains substantive elements that give rise to legal uncertainty, injustice, or incompatibility with constitutional principles due to evolving socio-political and institutional contexts, the Constitutional Court may undertake corrective and adaptive measures through constitutional interpretation that is both normative and constructive (Hapsoro & Ismail, 2020).

Even so, the Constitutional Court's interpretive authority is not unlimited. The Court is constitutionally authorized to review statutes against the Constitution, not to assume the legislature's open-ended policy-making discretion (Akmal et al., 2020). For that reason, judicial intervention must remain tethered to demonstrable constitutional violations, principled reasoning, and doctrinally defensible remedies. Where a ruling begins to prescribe detailed institutional design choices that could reasonably be settled through democratic legislation, constitutional scholarship raises concerns that the Court may move from interpretation into substitution of legislative judgment. This limitation is important in evaluating Decision No. 135/PUU-XXII/2024, because electoral scheduling and institutional restructuring are not only constitutional questions but also matters of legislative policy.

Constitutional Court Decision No. 135/PUU-XXII/2024 serves as a concrete illustration of the exercise of such authority. In this ruling, the Constitutional Court annulled legal provisions deemed to conflict with the UUD NRI 1945 and formulated a new constitutional norm concerning the model of electoral simultaneity, specifically, the separation of national and regional simultaneous elections, to be held two years apart. At this point, however, a critical constitutional question arises: whether the determination of a fixed two-year interval remains an act of constitutional interpretation or instead constitutes the judicial selection of one policy option among several possible electoral designs. The Court's decision may be defended on the ground that it seeks to remedy proven dysfunctions of the five-ballot election model and to protect electoral rights more effectively. Even so, the choice of a precise temporal interval is open to criticism because the Constitution does not expressly mandate a two-year separation as the only permissible arrangement. For that reason, the ruling can be read not only as a rights-protective intervention, but also as an assertive exercise of judicial discretion that narrows the policy space of the legislature.

A further issue concerns the institutional competence to determine the detailed architecture of the electoral calendar. While the Court may constitutionally invalidate an electoral design that impairs the principles of fair and meaningful elections, the translation

of those principles into detailed scheduling, transitional mechanisms, and office-term adjustments ordinarily belongs to the legislature (Satriawan & Lailam, 2019). In this sense, the Court's decision can be seen as constitutionally significant but institutionally incomplete: it establishes constitutional boundaries, yet the democratic legitimacy of the final design still depends on legislative follow-up through a transparent and participatory law-making process. This distinction is essential to preserve the separation of powers and to prevent constitutional adjudication from being understood as a substitute for democratic legislation.

The Constitutional Court has, in a number of cases, issued rulings whose practical consequences extend beyond the annulment of statutory provisions (Faiz, 2016). Nonetheless, whether such decisions should be understood as legitimate constitutional interpretation or as judicial intervention with law-making effects remains contested in constitutional scholarship, particularly when the ruling significantly restructures legislative policy choices. The Constitutional Court has, through a series of decisions, played a significant role in shaping Indonesia's constitutional order. However, the extent to which such decisions may legitimately move from correcting unconstitutional norms to constructing new legal norms remains subject to constitutional debate. One landmark ruling frequently cited in the context of judicial activism (Faiz, 2016) is Constitutional Court Decision No. 102/PUU-VII/2009 (Suparto, 2019). In this case, the Court held that Indonesian citizens who were not listed in the Final Voter List (Daftar Pemilih Tetap or DPT) still retain the right to vote, provided they can present valid official identification such as a national ID card (KTP) or a valid passport. The Court rendered a self-executing decision—one that required no implementing regulations from the executive or legislative branches, to protect the constitutional right to vote, as guaranteed under Article 28D (1) of the UUD NRI 1945. This ruling effectively established a new norm that substantively broadened the scope of electoral rights protection. It signifies a significant shift in the role of the Constitutional Court, from that of a negative legislator to a positive constitutional actor, actively offering constitutional solutions to legal gaps or normative stagnation.

Furthermore, Constitutional Court Decision No. 14/PUU-XI/2013 (Kurnia, 2022) marked a turning point in the design of Indonesia's national electoral system. In this ruling, the Constitutional Court held that the separate conduct of legislative and presidential elections was inconsistent with the UUD NRI 1945, as it contravened the principle of simultaneity embedded in Article 22E (1) and (2) of the Constitution. The Court emphasized that a democratic and effective electoral process requires the integration of legislative and executive elections to strengthen the presidential system and avoid pragmatic coalition-building practices that may undermine effective governance. This decision established a constitutional foundation for the reformulation of the electoral system toward a more coordinated model of national electoral simultaneity.

Subsequently, in Decision No. 55/PUU-XVII/2019 (Rosanti, 2020), the Constitutional Court identified five models of simultaneous elections that were deemed constitutionally permissible, including the model later adopted in Decision No. 135/PUU-XXII/2024, namely, the separation of national and regional simultaneous elections.

Nevertheless, the fact that a model has previously been recognized as constitutionally permissible does not automatically mean that the Court may later elevate one option into a near-determinative constitutional design without controversy. Critics of judicial activism argue that once the Court moves beyond testing constitutionality and begins selecting among multiple policy alternatives, it enters a domain that should primarily belong to the democratically accountable legislature (Faiz, 2016). From this perspective, the legitimacy of a progressive ruling depends not only on its constitutional aims, but also on whether the Court leaves adequate room for legislative choice, transitional design, and democratic deliberation.

In its legal reasoning, the Court emphasized that the design of simultaneous elections must take into account the simplicity and accessibility for voters, the technical feasibility of implementation, and the continuity of the governmental system. This decision articulated a set of guiding principles that should serve as normative references for legislators in designing an electoral system that ensures compliance with the fundamental principles of elections, those that are direct, general, free, confidential, honest, and fair, as enshrined in Article 22E (1) of the UUD NRI 1945.

All three decisions, both in terms of their interpretive approaches and normative implications, demonstrate the Constitutional Court's consistent commitment to fulfilling its constitutional mandate to enhance the quality of democracy in Indonesia. In this regard, Decision No. 135/PUU-XXII/2024 represents a continuation of the Constitutional Court's tradition of progressive jurisprudence, actively restructuring the institutional framework of elections to align with the principles of the rule of law and popular sovereignty. Accordingly, the affirmation of a two-tiered simultaneous election model, comprising national and regional elections, in this decision is not merely a technocratic solution.

At the same time, a balanced reading should acknowledge that the decision may invite at least three lines of criticism. First, the Court's formulation of a specific electoral arrangement can be viewed as narrowing the legislature's policy space in a field that ordinarily involves democratic compromise. Second, implementing a redesigned electoral calendar requires transitional arrangements regarding terms of office, electoral administration, and statutory harmonization, all of which may generate legal uncertainty if not carefully regulated by lawmakers. Third, a strong reliance on judicially designed institutional reform may shift responsibility for difficult political choices away from representative institutions, even though the long-term sustainability of electoral reform ultimately depends on legislative follow-up and political consensus.

Rather, it constitutes a constitutional affirmation of the need to reconstruct the electoral system in a manner that ensures effective governance, equitable political representation, and continuity in national development, all in pursuit of realizing the constitutional vision of the Unitary State of the Republic of Indonesia.

In constitutional law doctrine, the Constitutional Court is traditionally positioned as a negative legislator, an institution whose primary function is to annul legal norms that are inconsistent with the Constitution (Nugraha et al., 2020). However, the role of the Constitutional Court in Indonesia's constitutional practice has evolved in a more

progressive direction. Through Decision No. 135/PUU-XXII/2024, the Court has demonstrated its function as a positive constitutional interpreter, an institution that actively provides authoritative interpretations of fundamental constitutional norms and formulates new legal norms to address normative gaps and ensure the effectiveness of constitutional principles. Substantively, Decision No. 135/PUU-XXII/2024 marks a significant expansion of the Constitutional Court's role in safeguarding constitutional elections by establishing a new constitutional framework for electoral simultaneity. The Court explicitly stated that the model of national and regional simultaneous elections, conducted in two separate stages, is the most appropriate format for realizing the principle of popular sovereignty and the fundamental electoral principles as set forth in Article 22E (1) of the UUD NRI 1945. Accordingly, the Constitutional Court declared the relevant provisions in the General Election Law and the Regional Head Election Law to be unconstitutional and simultaneously offered a constitutionally sound alternative structure, complete with legal rationalization and an implementable design.

Decision No. 135/PUU-XXII/2024 may be read as an assertive exercise of constitutional review in an area traditionally shaped by legislative policy. From one perspective, such intervention can be justified where statutory design is considered incompatible with constitutional principles; from another, it raises questions about the proper limits of judicial authority in matters involving broad institutional engineering (Akmal et al., 2020).

Nevertheless, the decision also invites constitutional criticism that must be taken seriously in order to preserve analytical balance. First, although the Court may invalidate statutory provisions that contradict the Constitution, the formulation of a detailed two-tier electoral timetable may be viewed as approaching the domain of legislative policy-making, thereby raising questions about the outer limits of the Court's authority as a constitutional adjudicator. Second, the decision may be criticized as a form of judicial overreach insofar as it does not merely remove an unconstitutional norm, but also prescribes a specific institutional design that could be understood as belonging to the legislature's open legal policy. Third, the transition toward a separated national-regional electoral model carries practical and constitutional risks, particularly regarding the adjustment of terms of office, the readiness of election management bodies, and the possibility of regulatory inconsistency during the transition period. Fourth, while the decision seeks to improve democratic quality, it may simultaneously generate new uncertainties if the legal framework required to implement the ruling is not promptly and coherently enacted. For that reason, the constitutionality of the decision should be assessed not only from the perspective of its democratic objectives, but also from the standpoint of institutional restraint, separation of powers, and legal certainty.

The Court recognizes that the regulation of the electoral system and timetable, if left entirely to the discretion of legislators, carries a significant risk of being shaped by the electoral preferences of political parties and ruling political actors. This concern is consistent with Mukhlis, Balebo, et al. (2024), who show that electoral fairness can be undermined when incumbency advantages and executive authority are insufficiently

restrained during the electoral process. Read in that light, the Court's intervention in electoral design may also be understood as an attempt to reduce structural distortions in competition and to preserve the constitutional requirement that elections remain fair, balanced, and not disproportionately shaped by those already in power. Such discretion may lead to systemic distortions in the electoral architecture and compromise the principle of fair representation. The Constitutional Court acts as a constitutional counterweight, ensuring that the process of legal norm formulation does not deviate from the noble objectives of the Constitution, namely, the safeguarding of popular sovereignty, the protection of citizens' rights, and the conduct of free and fair elections (Akmal et al., 2020; Diantika Chayani & Arif Wibowo, 2023).

One of the key aspects of this decision lies in the Constitutional Court's use of an empirical-constitutional approach, referencing the implementation failures of the five-ballot simultaneous elections in 2019 and 2024. The Court did not assess the legal norm solely through textual interpretation but also considered its factual impact on the party system, the quality of political representation, governmental effectiveness, and electoral integrity. In practice, the decision produced significant normative consequences for the future design of elections. Yet these consequences should be treated cautiously in doctrinal terms: they may be described as the by-product of constitutional adjudication, but they should not automatically be equated with an unrestricted judicial authority to create new norms independently of the legislative process (Elisabet & Memi, 2019). The Constitutional Court carefully weighed the sustainability of national development regarding electoral scheduling. The one-day, five-ballot simultaneous election model has proven insufficient in providing the institutional space necessary for the institutionalization of political parties, the strengthening of the presidential system, and the integration of national and regional development planning. By affirming the necessity of separating national and regional elections with a two-year interval, the Court explicitly crafted an electoral design that allows for institutional consolidation and a more coherent and synchronized approach to development implementation. This decision is firmly grounded in the principles of checks and balances, governmental effectiveness, and respect for the principles of autonomy and political equality across all levels of government.

Accordingly, Decision No. 135/PUU-XXII/2024 reinforces the legitimacy of the Constitutional Court as an institution that shapes the constitutional future through progressive, substantive, and people-oriented interpretations. This role affirms the Court's position as the ultimate guardian within a democratic rule-of-law state, while simultaneously serving as a key actor in steering the institutional evolution of Indonesia's electoral system. Ultimately, Decision No. 135/PUU-XXII/2024 can be understood as an important constitutional intervention in electoral design, but its legitimacy must still be assessed in light of the distinction between constitutional adjudication and legislative policy-making. A balanced analysis therefore requires attention not only to the decision's corrective ambitions, but also to the risks of judicial overreach and the need to preserve the legislature's democratic law-making authority (Faiz, 2016).

The Negative Impact of the Five-Ballot Simultaneous Election on Democracy

The implementation of the five-ballot simultaneous election system during the 2019 and 2024 General Elections has generated serious challenges that have demonstrably affected the quality of electoral democracy in Indonesia (Juwaini, 2025). As regulated under Article 167 (3) and Article 347 (1) of Law No. 7 of 2017 on General Elections, this format mandates that voting for members of the DPR, the DPD, DPRD Provinsi, DPRD Kabupaten/Kota, and the President and Vice President be conducted simultaneously on a single day. Although initially intended to enhance electoral efficiency and strengthen the presidential system, this provision has instead resulted in extraordinary managerial and technical complexity. Ultimately, such complexity has obstructed the fulfillment of the core electoral principles enshrined in Article 22E (1) of the UUD NRI 1945.

The electoral principles enshrined in the UUD NRI 1945 include the conduct of elections that are direct, general, free, confidential, honest, and fair. The five-ballot simultaneous election system has resulted in substantial technical and administrative burdens for both electoral organizers and voters. For the General Elections Commission (Komisi Pemilihan Umum, or KPU), as a national, permanent, and independent electoral body (as stipulated in Article 22E (5) of the UUD NRI 1945), this system imposes extraordinary demands in terms of logistical management, ballot distribution, recruitment and training of election officials, and ensuring the accuracy of vote counting across five distinct electoral contests conducted on the same day. As a consequence, many regions experienced unprofessional practices, and in the case of the 2019 General Election, hundreds of Polling Station Working Committee (Kelompok Penyelenggara Pemungutan Suara, or KPPS) officials reportedly died due to extreme and disproportionate workloads (Laksmi Candra Amalia, 2022; Setiawan et al., 2020). These facts constitute a strong indication of violations of the principles of justice and legal certainty as guaranteed under Article 28D (1) of the UUD NRI 1945.

From the perspective of voters, the complexity of the five-ballot simultaneous election has undermined the fulfillment of the principles of comprehensibility and simplicity in the exercise of voting rights. Voters are required to navigate five distinct ballots, each with different formats, names, and colors, containing long lists of legislative candidates or presidential/vice-presidential pairs (Wasisto, 2021). This complexity has demonstrably reduced voters' ability to make informed and independent choices and has significantly increased the likelihood of invalid voting. Empirical data reveal that the number of invalid ballots rose markedly in the five-ballot simultaneous elections compared to previous, non-simultaneous elections. For example, in the 2019 General Election, official data from the KPU indicated that invalid ballots for the DPR reached 11.14 million, approximately 17.5% of the total number of valid and invalid votes (Rohim, 2019), while invalid ballots for regency/municipal DPRD were even higher. This phenomenon clearly illustrates a failure of the electoral process to guarantee the freedom of choice, a constitutional right derived directly from Article 28E (3) of the UUD NRI 1945. Moreover, the excessive complexity creates barriers to participation, particularly for vulnerable voter groups such as the elderly, persons with disabilities, and those with lower educational backgrounds. When the voting

process requires excessive time and a high level of technical understanding, participation ceases to reflect an expression of popular sovereignty and instead becomes a burdensome administrative ritual. Such conditions contravene the spirit of inclusive democracy as enshrined in Article 28I (2) of the UUD NRI 1945, which guarantees the right to be free from discrimination in the exercise of political rights.

The managerial complexity and the increased rate of invalid ballots in the five-ballot simultaneous election cannot be separated from their broader impact on the institutionalization of political parties and the evolution of political recruitment practices, which have become increasingly pragmatic and transactional. Within a constitutional democratic system grounded in Articles 1 (2) and 1 (3) of the UUD NRI 1945, political parties serve as essential pillars in ensuring the articulation and aggregation of the people's interests. This role is affirmed in Article 6A (2) of the UUD NRI 1945, which states that candidates for President and Vice President are nominated by political parties or coalitions thereof participating in elections, as well as in Article 22E (3), which establishes that political parties are the sole participants in elections for members of the DPR and DPRD. However, the five-ballot election format incentivizes political parties to adopt short-term strategies aimed at maximizing votes within a compressed timeframe, leaving inadequate institutional space for cadre development, ideological screening, or the consolidation of substantive policy platforms. In such conditions, political recruitment is no longer based on a candidate's capacity, integrity, or ideological commitment to the party, but instead hinges on electoral viability, including instant popularity and financial strength. This dynamic has led to widespread practices of money politics (Delmana, 2020), nomination fees (Ardianto, 2019), and the co-optation of non-party actors (such as celebrities, business figures, and public personalities) (Mustika & Arifianto, 2018) into party candidate lists purely for opportunistic vote gains.

The pressure generated by simultaneous elections may also be seen from the supervisory dimension. Bawaslu reported 1,023 registered allegations of election violations in the 2024 election, consisting of 482 reports and 541 findings. Of that number, 479 were categorized as violations, including 69 administrative violations, 39 suspected election crimes, 248 ethical violations, and 125 other legal violations. These figures should not be read as proving that all violations were caused by the five-ballot format alone. They do, however, illustrate that election governance in a large simultaneous contest placed considerable pressure not only on administration, but also on supervision, enforcement, and legal accountability mechanisms.

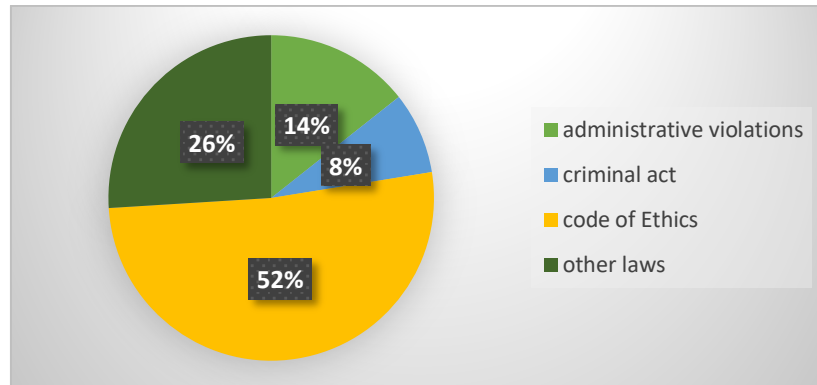


Figure 1. Types of Election Violations Identified by Bawaslu in 2024

Source: (Bawaslu, 2024)

Figure 1 indicates that the 2024 election generated a substantial supervisory and enforcement workload. For the purposes of this article, the importance of this evidence lies not in claiming a single causal explanation, but in showing that electoral complexity also has implications for the broader integrity architecture of elections. In other words, the constitutional assessment of electoral design should consider not only voting and counting, but also the extent to which the system places stress on supervision and accountability institutions.

This condition has led to the de-institutionalization of political parties. Rather than functioning as ideological and structural intermediaries between the state and society, parties have increasingly transformed into transactional electoral vehicles. This phenomenon fundamentally contradicts the spirit of Article 28C (2) of the UUD NRI 1945, which guarantees every citizen the right to participate in the governance of the state. When internal party recruitment processes are influenced by financial power and political transactions, the opportunity for citizens to engage meaningfully and equitably in the political system becomes significantly hindered.

Moreover, this practice has significantly eroded the legislative and oversight functions of representative institutions. Many elected representatives who have secured their positions through pragmatic and transactional nomination mechanisms have demonstrated limited legislative capacity and a lack of loyalty to either party ideology or the interests of their constituents (Fardian, 2021). Rogers (2017) also supports the view that representative quality cannot be separated from the incentives created by electoral institutions. Where electoral competition weakens accountability links between representatives and constituents, legislative behavior is less likely to reflect coherent ideological representation and more likely to drift toward opportunistic or weakly monitored political conduct. Rather than acting as policymakers, they tend to behave as vote seekers or deal makers, thereby undermining the design of checks and balances within the constitutional system. In the long term, this condition fosters the emergence of an electoral oligarchy, distancing elections from the essence of popular sovereignty and obscuring accountability within the representative system. The five-ballot simultaneous election system, by concentrating all electoral agendas into a single moment, exacerbates this situation. Political parties are compelled to manage recruitment and campaign strategies simultaneously for five distinct

electoral contests. As a result, the deliberative space within parties contracts, and candidate selection becomes hasty and overly standardized by pragmatic electability metrics rather than substantive quality. This condition stands in stark contradiction to the intended function of political parties as outlined in Article 11(1)(b) of Law No. 2 of 2011 on Political Parties, which stipulates that one of the core functions of political parties is to conduct political recruitment in a democratic and accountable manner.

In its Decision No. 135/PUU-XXII/2024, the Constitutional Court explicitly addressed this issue by affirming that the five-ballot simultaneous election system has, in practice, led to the degradation of political party institutionalization due to the loss of adequate space for strategic political planning. The separation between national and local elections, with a two-year interval, provides sufficient temporal space for political parties to restructure their cadre development mechanisms, strengthen internal party structures more substantively, and tailor their political platforms to the distinct electoral contexts at the national and regional levels. This separation is expected to restore the ideological and articulative functions of political parties and improve the quality of political recruitment based on merit, ethics, and competence, as should be the standard in a democratic state governed by the rule of law.

The weakening of political party institutionalization and the rise of transactional political recruitment under the five-ballot simultaneous election system have had direct consequences on the declining quality of political representation and public participation. In a constitutional democracy, political representation must reflect an authentic connection between the will of the people and public decision-making by their elected representatives (Brennan & Hamlin, 1999). In this perspective, representation is not exhausted by the formal existence of elected offices; it also depends on whether electoral arrangements preserve a meaningful linkage between citizens' preferences and those who govern in their name. An electoral format that overloads voters, compresses party recruitment, and weakens issue differentiation may therefore diminish representation not only administratively, but also substantively (Brennan & Hamlin, 1999). However, the five-ballot system, marked by administrative complexity and the pervasive influence of money politics, has created a situation in which the representative process no longer embodies popular sovereignty but is instead dominated by elitist and oligarchic interests. This phenomenon reinforces the disconnect between voters and their representatives, who often lack ideological, historical, or social ties to the constituencies they are meant to represent. As a result, the public experiences political alienation, evidenced by increasing voter apathy, declining trust in representative institutions, and the erosion of hope that elections can meaningfully improve their lives.

Furthermore, public participation, both in its formal sense (voter turnout on election day) and its substantive dimension (engagement in public discourse, election monitoring, and policy-making processes), has also been adversely affected by the overly complex and confusing structure of the five-ballot simultaneous election system. The format, involving five separate ballots for different levels of office and geographic constituencies, imposes a significant cognitive burden on voters. This complexity undermines the quality of political

decision-making, as many citizens cast their votes randomly, emotionally, or in response to clientelist and money-driven politics. In such a context, the principle of freedom of choice becomes a mere procedural illusion rather than a full realization of constitutionally guaranteed rights. From the perspective of democratic accountability, low-quality participation, manifested in voter disengagement, invalid ballots, or arbitrary voting, amounts to a form of electoral delegitimation. Democratic accountability, moreover, should not be understood merely as the formal occurrence of elections, but as the existence of institutional conditions that allow citizens' preferences to be translated into intelligible political judgment and effective control. For that reason, when electoral design produces confusion, disengagement, and weak voter comprehension, the problem is not only technical inefficiency but a deterioration in the democratic quality of accountability itself (Goodhart, 2011). This directly contravenes Article 28I (2) of the UUD NRI 1945, which affirms that the right to participate in political life is a non-derogable human right. If an electoral design results in decreased participation and diminished representational quality, it must be deemed constitutionally flawed.

Constitutional Court Decision Number 135/PUU-XXII/2024 explicitly acknowledges this reality and affirms that the simultaneous five-ballot election format has diminished the quality of both political representation and citizen participation, in terms of substance as well as procedure. Accordingly, the two-tiered simultaneous election model, comprising national and regional elections held separately with a two-year interval, as prescribed in the Court's ruling, constitutes a visionary constitutional response to the representational challenges facing Indonesia's electoral system. By affording institutional space and sufficient time for the electorate to comprehend and engage with the electoral process distinctly at the national and regional levels, the Constitutional Court aims to restore the value of political participation as a genuine expression of popular sovereignty. Simultaneously, this separation is expected to enhance the quality of political representation, as it enables voters to make more rational, context-sensitive, and informed decisions regarding the candidates and policy platforms presented in each electoral cycle.

There is also a significant institutional dimension, namely the impediment to the integration between national and regional development. The five-ballot simultaneous election format, which combines the election of national legislative and executive officials with regional legislative elections in a single electoral event, not only imposes administrative burdens and causes voter disorientation, but also adversely affects the development planning cycles between central and regional governments. These cycles are constitutionally expected to operate in synergy within the framework of the Unitary State of the Republic of Indonesia. Given Indonesia's decentralized system of government, regional autonomy constitutes a constitutional principle guaranteed under Article 18 (2) of the UUD NRI 1945, which affirms that "provincial, regency, and municipal governments shall govern and administer their affairs according to the principles of autonomy and co-administration" (Fikri & Wibisono, 2023). This provision underscores the constitutional entitlement of regional governments to independently plan and implement development policies responsive to local needs, provided they do not conflict with national priorities.

Furthermore, Article 18B (1) of the UUD NRI 1945 guarantees recognition and respect for regional administrative units with special and distinctive characteristics, thereby adding complexity to the central-regional relationship within the broader development framework. However, the implementation of the five-ballot simultaneous elections has resulted in a structural desynchronization between political cycles and development planning across levels of government. When elections for the presidency, members of the DPR, and regional executives are held simultaneously, the terms of office of those elected tend to conclude concurrently or within close proximity. This synchronization of leadership transitions creates a “cut-off development planning” effect, wherein ongoing development programs initiated by outgoing officials are prematurely disrupted or abandoned, especially as new leadership may shift policy orientations and priorities.

National development planning is formulated in the form of the National Medium-Term Development Plan (Rencana Pembangunan Jangka Menengah Nasional or RPJMN) by the President, as stipulated in Article 4 (2) of Law Number 25 of 2004 concerning the National Development Planning System. On the other hand, regional governments are mandated to prepare a Regional Medium-Term Development Plan (Rencana Pembangunan Jangka Menengah Daerah or RPJMD) aligned with the term of office of the respective regional head. When elections are conducted simultaneously, the terms of office of both the president and regional heads tend to commence concurrently. However, the formulation processes of the RPJMN and RPJMD often lack coordination, as each is developed based on distinct political dynamics and coalition arrangements. This misalignment creates a tangible risk of policy disharmony between the central and regional governments, thereby hindering the effective implementation of strategic national programs at the regional level.

More problematically, fiscal decentralization and regional budget management, which are intended to support autonomous planning, become obstructed when newly elected regional heads are compelled to readjust institutional structures and development visions that are misaligned with the RPJMN, which has already been established at the national level. As a result, delays in budget absorption occur, programmatic overlaps emerge, and continuity in cross-sectoral and interregional development is disrupted. In such circumstances, the overarching objective of national development, namely, the promotion of general welfare as enshrined in the Preamble of the UUD NRI 1945, is systemically hindered due to the breakdown in coordination between central and regional governments.

Constitutional Court Decision No. 135/PUU-XXII/2024 provides a progressive response to these challenges by adopting a two-tier simultaneous election model, national and regional elections, held within a two-year interval. The Court recognized that such separation would allow for a more rational framework of institutional coordination, enabling the alignment of national development visions and missions with the interests of regional autonomy. With non-concurrent terms of office, the newly elected President may first formulate and establish the RPJMN, which can subsequently serve as a reference for newly elected regional heads and DPRD in drafting their respective RPJMD under national

development priorities. This model reflects the constitutional principles of effective, coordinated, and accountable governance. The temporal separation of national and regional elections fosters improvement in intergovernmental relations. Regional leaders and DPRD members may exercise greater autonomy and strategic discretion, unencumbered by the concurrent pressures of national electoral dynamics. This arrangement creates a healthier political space for regions to pursue governance that reflects local aspirations, while remaining within the framework of national integration.

The regional dimension is important because local democracy is not automatically strengthened merely by holding elections; it also depends on whether regional contestation remains open, competitive, and free from elite capture. Mukhlis, Ilmar, et al. (2024) demonstrate that legal reform at the regional level remains necessary when democratic processes are weakened by concentrated familial or oligarchic influence. In this article's context, that insight supports the argument that the redesign of electoral timing should also be assessed by whether it improves the quality of local democratic competition rather than merely redistributing the electoral calendar. In other words, this electoral model reconstructs the constitutional system more organically, balancing unity and diversity, national cohesion and regional plurality.

The five-ballot election system implemented during the 2019 and 2024 general elections has substantially diminished the substantive meaning of constitutional democracy in Indonesia. This electoral format has demonstrably undermined the foundational principles of elections as guaranteed by the UUD NRI 1945, weakened the quality of public participation and political representation, and fostered transactional and elitist political practices. Moreover, the design of a single-day simultaneous election has generated disorientation within the development planning cycles between the central and regional governments, thereby obstructing the realization of a just and sustainable national development agenda. Constitutional Court Decision No. 135/PUU-XXII/2024 deserves recognition as a progressive constitutional corrective measure, as it explicitly acknowledges the negative consequences of the five-ballot system and offers an alternative electoral model consisting of two separate tiers, national and regional, that is more rational, equitable, and inclusive. This model provides adequate temporal space for the electorate to meaningfully engage in each electoral process, reinforces the institutionalization of political parties, and restores coherence between national policies and regional interests. Accordingly, the separation of national and regional elections constitutes a fundamental effort to reclaim elections as an authentic expression of popular sovereignty and as a constitutional mechanism to establish a democratic, effective, and accountable government.

Constitutional Argumentation in Constitutional Court Decision No. 135/PUU-XXII/2024

The principles of elections that are direct, general, free, confidential, honest, and fair, as stipulated in Article 22E paragraph (1) of the UUD NRI 1945, constitute imperative constitutional norms that are non-negotiable in the implementation of electoral democracy in Indonesia (Fatayati, 2017). These principles reflect the foundational values for the exercise of popular sovereignty (Article 1 paragraph (2) UUD NRI 1945) within the

framework of a democratic Rechtsstaat (Article 1 paragraph (3) UUD NRI 1945). Consequently, every electoral system, whether in terms of institutional design, managerial structure, or practical implementation, must adhere strictly to these constitutional principles. In Constitutional Court Decision No. 135/PUU-XXII/2024, the Constitutional Court explicitly held that the conduct of simultaneous elections involving five different types of ballots can no longer guarantee the effective implementation of these principles. The five-ballot electoral system has proven to result in exceptional procedural complexity and excessive administrative burdens for both election administrators and voters, thereby creating conditions that substantively contradict the principles of directness and freedom. In prior rulings, the Court had interpreted the principle of directness as the right of voters to cast their votes personally, without intermediaries or coercion, while freedom was defined as the complete autonomy of voters to make their choices, free from intimidation, manipulation, or any form of structural or cultural pressure. However, under the five-ballot system, many voters have reported difficulties in understanding and completing five different ballot papers simultaneously, within a constrained timeframe and under the pressure of long queues. These conditions have undermined the meaningful expression of political will, often leading voters to make hasty or mistaken choices, thereby compromising the true meaning of elections being direct and free. Similarly, the principle of generality, which requires open and equal access for all citizens to exercise their voting rights without discrimination, is also adversely affected under this system.

Furthermore, the principle of confidentiality, which requires that a voter's choice must remain unknown to others and must not be traceable to the individual voter, is also at risk of being compromised in the implementation of the five-ballot electoral system. The technical complexity and time constraints within the voting booth have compelled some voters to unfold and review their ballots outside the designated procedures or to seek assistance from others in casting their votes. These practices pose a significant threat to the secrecy of the vote. Equally important are the principles of honesty and fairness, which serve as fundamental benchmarks in assessing the integrity of elections. The principle of honesty mandates that all stages of the electoral process, from voter registration, candidacy, campaigning, voting, and vote counting, to the final determination of results, must be conducted objectively, transparently, and without manipulation. The principle of fairness requires that all electoral participants be afforded equal opportunity to compete, free from both structural and procedural discrimination. In practice, the five-ballot election has created a structurally unequal playing field, wherein candidates for certain electoral contests, particularly the presidential election, receive disproportionate attention from voters and the media, to the detriment of legislative candidates, especially those contesting for seats in district or municipal DPRD. This imbalance runs counter to the spirit of proportional representation, as enshrined in Article 22E paragraph (3) of the UUD NRI 1945.

Through Decision Number 135/PUU-XXII/2024, the Constitutional Court adopted an approach rooted in substantive constitutionalism, which holds that the fundamental principles of the Constitution cannot be satisfied through procedural compliance alone, but

must instead be interpreted in light of their practical effectiveness and meaningful realization in everyday life (M. Ali, 2016). The Court rejected narrow formalism, which equates electoral simultaneity with mere arithmetical or mechanical concurrence, and emphasized that constitutional simultaneity must ensure the full implementation of the core electoral principles. Referring to empirical experience from the 2019 General Election and the projected challenges of the 2024 Election, the Constitutional Court concluded that holding five types of elections concurrently on a single day diverges from the constitutional principles underpinning democratic elections. The Court underscored that such a system undermines the substantive values of directness, freedom, fairness, and equality, which are mandated under Article 22E (1) of the UUD NRI 1945.

The separation between national and regional elections, as delineated by the Constitutional Court in Decision Number 135/PUU-XXII/2024, constitutes both a corrective and affirmative constitutional measure aimed at addressing the technical complexities of electoral administration. It is also a deliberate effort to reinforce the principle of popular sovereignty and enhance the effectiveness of the presidential system as enshrined in the UUD NRI 1945. Under the post-amendment presidential system adopted by Indonesia, there exists a structural need for the consolidation of executive authority and coherent political support from the legislative branch in order to establish a government that is stable, effective, and accountable.

Referring to Article 6A paragraph (2) of the UUD NRI 1945, this provision affirms that the political forces involved in nominating presidential candidates are the same entities competing in the legislative elections. The coordinated implementation of presidential and legislative elections is essential to ensure synergy between the elected President and the legislative support required to execute the governmental agenda effectively. However, the five-ballot simultaneous election model, which combines national and regional elections on the same day, has instead led to inevitable political fragmentation. Overlapping campaign periods, divided voter attention, and political recruitment driven by short-term electoral incentives have weakened the consistent articulation of party programs and ideological platforms. Consequently, political parties have failed to perform their essential role as a transmission belt between the people and the government. In the context of a presidential system, such fragmentation impedes the formation of an effective governing coalition in the legislature, as party orientations are not structured around alignment with national policy agendas but are instead shaped by pragmatic electoral considerations within extremely limited timeframes.

With the separation between national and regional elections, as mandated by the Constitutional Court, a sufficient temporal interval is established between the election of the President, the DPR, and the DPD, and the election of regional heads and DPRD. This separation provides both temporal and institutional space for the consolidation of the national government elected through the national elections before it confronts the complex dynamics of local politics. Within the two years following the national elections, the elected President, together with his or her supporting coalition, is allowed to form the governmental structure and to formulate a coherent and stable national policy direction through the

RPJMN. This arrangement is consistent with the spirit of Article 4(1) of the UUD NRI 1945, which stipulates that “the President of the Republic of Indonesia shall hold the executive power under the Constitution.”

Moreover, in a presidential system, the relationship between the executive and legislative branches ought to be characterized by mutual oversight without mutual subversion, under the principle of checks and balances (Edyson et al., 2025). However, the five-ballot election model, conducted simultaneously with regional head elections, results in the concurrent distribution of political power across various levels of government. This simultaneity carries the risk of producing anomalous coalitions that may generate misalignment between the central and regional governments. The separation of elections allows for full institutional and political concentration on the formation of the national government first, which in turn can serve as a reference point for regional development planning through subsequent regional head and DPRD elections. Additionally, this separation restores the meaning of elections as a deliberative mechanism through which the people consciously and purposefully determine their political future. When elections are no longer reduced to a simultaneous contest overwhelmed by noise and informational chaos, citizens are better positioned to assess, independently and critically, the qualifications of both national and regional legislative candidates, as well as executive candidates at both levels. This enhances the substantive quality of the democratic process, as voters can exercise their political rights in a calmer, more reflective atmosphere, grounded in political knowledge and understanding. Such a setting constitutes a concrete manifestation of the principle of popular sovereignty.

The two-year interval between national and regional elections, as mandated by the Constitutional Court in Decision No. 135/PUU-XXII/2024, constitutes a rational and proportionate constitutional formulation aimed at balancing the need for national governmental stability with the regions’ right to exercise political autonomy effectively. The Constitutional Court recognized that the temporal separation of elections is a form of institutional engineering that significantly shapes the trajectory of electoral democracy, the effectiveness of development planning, and the cohesion of the national political system as a whole. The scheduling of elections is a critical component of constitutional design, requiring a careful balancing of institutional efficiency and the protection of fundamental constitutional principles. The two-year interval between national and regional elections must thus be understood as an exercise in constitutional balancing, an institutional pause intended to enable post-election political consolidation at the national level, while simultaneously respecting the sovereign right of the people at the regional level to elect their local leaders in a more conducive environment, free from interference or the overshadowing effects of national political dynamics.

The two-year interval provides a critical window for the President and the DPR, elected through national elections, to establish the government, formulate the RPJMN, draft the National Legislative Program (Prolegnas) (Riqiey & Hikam, 2025), and construct a coherent cabinet structure, free from the political contestations at the regional level. Such stability is essential within the framework of a strong and effective presidential system,

wherein the President, as both head of state and head of government, requires an initial period to constitutionally consolidate executive authority, as mandated by Article 4 paragraph (1) of the UUD NRI 1945 (Riqiey, 2023c) Conversely, the regions also stand to benefit constitutionally from this temporal separation. The conduct of regional head and local legislative elections independently of national elections insulates local politics from national biases and allows for a more focused and deliberative electoral process at the regional level. This approach reinforces the spirit of decentralization and regional autonomy as provided under Article 18, paragraph (2) of the UUD NRI 1945, which mandates that provincial, regency, and municipal governments shall manage and administer their affairs based on the principles of autonomy and co-administration (Fikri & Wibisono, 2023; Riqiey et al., 2025).

Through the establishment of a two-year interval, the Constitutional Court has demonstrated a highly purposive approach in interpreting the Constitution. The Court employed a remedial construction by formulating a new normative framework that bridges the gap between constitutional idealism and empirical realities (Elisabet & Memi, 2019). Accordingly, the two-year interval represents a moderate constitutional compromise that does not nullify the principle of simultaneity per se, but instead reconstructs it into a tiered simultaneity, simultaneity at the national level and simultaneity at the regional level, separated by a reasonable and operational timeframe. This approach reflects the Court's refusal to be constrained by narrow formalism and its commitment to developing a living constitution, one that is responsive and adaptive to socio-political contexts. The Constitutional Court has thus affirmed its dual role as both a norm entrepreneur and constitutional guardian, capable of upholding the supremacy of the Constitution while accounting for the empirical complexities inherent in the implementation of the electoral system. Therefore, the two-year separation between national and regional elections constitutes a progressive step in the consolidation of electoral democracy, grounded in institutional efficiency, electoral justice, and the stability of both national and local systems of governance.

With the implementation of this interval, national and regional electoral processes are able to operate within their respective domains without mutual distortion. The quality of electoral competition improves, political representation becomes more accurate and meaningful, and public participation is enhanced in substance. This interval constitutes an expression of the rule of reason principle in constitutional law, allowing for institutional flexibility while remaining within the bounds of constitutional principles. Therefore, the Constitutional Court's decision to separate national and regional elections by a two-year interval is not merely a corrective measure addressing the dysfunctionality of the simultaneous five-ballot election format. Rather, it constitutes an affirmation of the spirit of progressive constitutionalism, responsive to both the needs of the people and the institutional demands of the state.

Amendments to the electoral scheme, including those related to simultaneity and scheduling of elections, necessarily require a legitimate and proportional institutional transition mechanism that remains within constitutional boundaries. The restructuring of

terms of office is not only constitutionally permissible but also constitutes a logical consequence of constitutional engineering aimed at ensuring the continuity of governance and legal order in the administration of elections. The term of office for the President and Vice President is governed by Article 7 of the UUD NRI 1945, which stipulates that: “The President and Vice President shall hold office for a term of five years and may subsequently be re-elected to the same office for one further term only” (Latansa, 2019; Ferdinandus, 2023). Likewise, Article 22E (1) of the 1945 Constitution provides that general elections shall be held every five years. This provision applies *mutatis mutandis* to the terms of members of the DPR, DPD, and DPRD, as regulated in Law Number 7 of 2017 on General Elections (Sahidin et al., 2024; Saputra, 2022). The term of office for regional heads is stipulated in Article 201(5) of Law Number 10 of 2016 on Regional Head Elections, which states that regional heads and their deputies elected through regional elections shall serve for five years (Riqiey, 2023b). However, in the context of transitioning to a dual-tier electoral model with a two-year interval between national and regional elections, any adjustment of term lengths can only be constitutionally justified under strict and exceptional conditions, because it directly affects electoral legitimacy, the temporal scope of the people’s mandate, and the constitutional principle of periodic elections. In its legal reasoning, the Constitutional Court explicitly stated that to ensure the effective implementation of the newly established electoral simultaneity model, it is imperative to restructure term durations, either through the shortening or extension of certain terms, provided such adjustments are limited in scope, rational, proportionate, and subject to the principle of constitutional necessity.

Nevertheless, from the standpoint of constitutional democracy, the adjustment of terms of office cannot be treated as a simple technocratic consequence of electoral redesign. Because elected office is derived from the people’s mandate through periodic elections, any shortening or extension of tenure must be subjected to stricter constitutional limits. First, such adjustment must be made only by statute enacted through an open and democratically accountable legislative process, not by administrative discretion or *ad hoc* executive action. Second, it must be transitional, exceptional, and expressly one-off, so that it does not evolve into a precedent for normalizing extensions of public power. Third, it must satisfy a test of strict proportionality: the deviation from the ordinary five-year cycle must be the minimum necessary to implement the new electoral design and must not exceed what is required for institutional synchronization. Fourth, the process must be subject to strict public and constitutional scrutiny in order to prevent transitional engineering from becoming a vehicle for incumbency preservation or disguised mandate expansion.

The principle of constitutional necessity (Dolzhikov, 2022) should be understood narrowly in this context: it does not authorize ordinary political convenience, but only permits temporary and legally controlled deviation where no less rights-restrictive alternative is available to preserve constitutional order, electoral legitimacy, and governmental continuity. The adjustment of terms of office constitutes a technocratic and transitional measure aimed at preserving the continuity of governance and the integrity of

electoral processes. The Constitutional Court, in the a quo decision, affirmed that the extension or shortening of terms of office to harmonize the electoral calendar is not in violation of the UUD NRI 1945, provided such changes are exceptional, applied only once, and intended exclusively for systemic adjustment, not as a means of personal power extension.

In addition, the constitutionality of any transitional term adjustment should be assessed in light of the principle of protecting electoral mandates. In a representative democracy, elections do not merely fill offices; they confer a time-bounded mandate whose duration forms part of the democratic authorization granted by voters (Mukhlis, Tajuddin, et al., 2024). For that reason, a departure from the ordinary electoral cycle should not diminish, re-allocate, or prolong representative authority beyond what can be publicly justified as necessary to preserve the integrity of the constitutional order. Read in this way, the principle of constitutional necessity cannot operate as a blanket justification for altering tenure, but only as a narrowly confined exception that remains subordinate to periodic elections, democratic accountability, and the free expression of the electorate's will.

Moreover, the restructuring of the electoral schedule and terms of public office may be viewed as a form of legal reengineering, the recalibration of legal norms, to realize a more constitutionally sound institutional design.

The Constitutional Court has also established a legal foundation for this adjustment mechanism in several of its prior decisions, including Decision No. 55/PUU-XVII/2019, which affirmed that the determination of the electoral simultaneity design falls within the Constitutional Court's domain as the guardian of the Constitution, and that the legislature is obligated to follow up on such decisions through legislative action. Consequently, the adjustment of terms of office constitutes part of a constitutional follow-up mechanism to the Court's ruling and must be regulated through statutory amendments by the legislative authorities, rather than being treated as a matter of administrative discretion or policy. In line with this, the principle of the *Rechtstaat* requires that all actions undertaken by state actors, including the organization of the electoral calendar and the adjustment of terms of office, be conducted based on legal authority, within a framework of legal certainty, and for legitimate purposes. Therefore, the recalibration of terms of office designed to facilitate the transition from the simultaneous electoral system to the two-tier electoral model, so long as it is executed through legislative procedures and adheres to constitutional principles, constitutes a lawful, legitimate, and constitutional measure.

Accordingly, Constitutional Court Decision No. 135/PUU-XXII/2024 reflects a corrective measure to a demonstrably dysfunctional electoral design and stands as a significant milestone in strengthening the principles of a living and progressive constitutionalism. Through the lens of substantive constitutionalism, the Constitutional Court rejected procedural formalism that disregards the effectiveness of implementing electoral principles, and instead, in a visionary manner, formulated a two-tier electoral model with a two-year interval as a proportional exercise of constitutional balancing. This temporal separation creates institutional space for the consolidation of a stable and accountable national government, while simultaneously restoring the political autonomy of

regional governments within a more deliberative and locally grounded electoral environment, free from national overshadowing. This step paves the way for the establishment of effective governance, a cohesive legislative structure, and synchronized central–regional relations in development planning and implementation. The adjustment of terms of office, as part of the institutional transition toward this new model, is constitutionally legitimate, provided it is conducted in a limited, rational manner and adheres to the principle of constitutional necessity. Therefore, this decision should be viewed as an embodiment of the living constitution in practice, one that prioritizes the values of electoral justice, institutional effectiveness, and the substantive realization of popular sovereignty. In the long term, the two-tier electoral model set forth by the Constitutional Court serves as a foundational framework for the deepening of Indonesia’s electoral democracy, one that is more just, inclusive, and grounded in the integrity of constitutional principles. As one of the logical consequences of Constitutional Court Decision No. 135/PUU-XXII/2024, the ruling should be followed up by legislative amendment to the electoral legal framework. At the time of writing, official developments indicate ongoing proposals and discussions for revising the Election Law, rather than a definitive legislative amendment already enacted (Kartika, 2025). The form of the amendment is very diverse, some have proposed that it be poured into an omnibus form by uniting the Pilkada law and the political party law (Riqiey & Janah, 2025), or into another form while still paying attention to the procedure for forming laws.

Did the Court Exceed the Limits of Judicial Review?

A central constitutional question raised by Decision No. 135/PUU-XXII/2024 is whether the Constitutional Court remained within the proper limits of judicial review or whether it moved too far into the domain of legislative design. In Indonesian constitutional doctrine, the Court is traditionally understood as a negative legislator, namely an institution primarily authorized to invalidate statutory norms that conflict with the Constitution, rather than to formulate detailed policy choices that should ordinarily be decided by the legislature (Widjaja et al., 2025). However, constitutional practice in Indonesia has shown that the Court has, in certain cases, developed more expansive and constructive interpretations in order to preserve constitutional rights and prevent legal vacuum (M. Ali, 2016). This doctrinal development explains why the decision may be defended as part of an evolving model of constitutional adjudication, but it also simultaneously opens space for criticism concerning the boundary between constitutional interpretation and law-making. Nugraha et al. (2020) explain this shift from negative legislator toward positive legislator as a real phenomenon in Indonesian constitutional review, while Hapsoro & Ismail (2020) place such developments within the broader framework of the living constitution.

In that light, Decision No. 135/PUU-XXII/2024 can be viewed as constitutionally defensible to the extent that the Court did not invent the issue from nothing, but responded to a constitutional dispute concerning electoral simultaneity, voter protection, and the institutional consequences of the five-ballot model. The Court also did not operate in a wholly unconstrained manner, because its reasoning still referred back to earlier

jurisprudence, especially Decision No. 55/PUU-XVII/2019, which had already recognized several constitutionally permissible models of simultaneity and had emphasized simplicity, feasibility, and systemic coherence as relevant considerations. The official summary of Decision No. 135/PUU-XXII/2024 likewise shows that the Court grounded its reasoning in the need to preserve presidential simultaneity at the national level while reassessing the broader electoral design in light of empirical experience.

Nevertheless, criticism remains warranted. The more specific the Court becomes in prescribing not merely constitutional limits but also an institutional design, including the separation of national and regional elections with a two-year interval, the more difficult it becomes to deny that the Court is influencing policy formation in a domain ordinarily entrusted to the political branches. This concern may be sharpened by the scholarship on conditionally constitutional rulings, which shows that judicial remedies can remain constitutionally legitimate only so long as they continue to interpret statutory meaning rather than substitute the legislature's policy-making role. In that sense, the problem in Decision No. 135/PUU-XXII/2024 is not simply that the Court acted progressively, but whether the prescription of a specific two-tier timetable moved from constitutional interpretation into a more directive form of institutional design (Oktavinanda, 2018). For that reason, this decision should be assessed not only as an instance of judicial courage, but also as a decision that tests the outer boundary of Indonesian constitutional review. A balanced reading therefore requires acknowledging both propositions at once: the Court may have acted to remedy a serious constitutional dysfunction, yet the remedial design it adopted also raises legitimate concerns about judicial overreach and the shrinking space of legislative discretion.

Is the Ratio Decidendi Strong Enough and Is the Two-Tier Model the Only Constitutional Option?

The next issue concerns the strength of the Court's ratio decidendi. The decision appears persuasive insofar as it links the empirical failures of the five-ballot model with constitutional principles such as electoral fairness, meaningful participation, voter accessibility, and the effective operation of the presidential system. The official summary of the case indicates that the Court expressly relied on the practical experience of the 2019 and 2024 electoral cycles, including the excessive burden placed on election administrators and the declining quality of voters' exercise of sovereignty. In this respect, the Court's reasoning is stronger than a purely abstract constitutional argument because it attempts to connect constitutional meaning with institutional consequences in practice.

Even so, a strong critique can still be made against the decision's inferential step from identifying the constitutional defects of the five-ballot model to preferring one particular alternative. Demonstrating that the existing model is constitutionally problematic does not automatically establish that the two-tier model is the only or necessarily the best constitutional answer (Hanan et al., 2025). The Court's reasoning is strongest when it explains why the five-ballot arrangement has become difficult to reconcile with constitutional principles (Gunawan et al., 2025). It is weaker when it moves from that

critique to the conclusion that a national–regional separation with a two-year interval should be privileged over other feasible alternatives. This is especially important because the Court’s own earlier jurisprudence had acknowledged multiple constitutionally permissible models of simultaneity.

Accordingly, the more defensible position is not that the two-tier model is inherently “ideal” or constitutionally mandatory, but that it is one constitutionally plausible option that may be normatively preferable if, and only if, it performs better than other alternatives under clear evaluative standards. For that reason, the constitutionality of the two-tier model should be tested comparatively against at least three possibilities: first, the existing five-ballot model; second, the Constitutional Court’s two-tier model; and third, other constitutionally feasible alternatives, such as a simplified simultaneity arrangement, partial separation between national and subnational contests, or ballot simplification within a still-simultaneous framework. Without such comparative testing, the argument risks appearing conclusory rather than analytical.

Comparative Assessment of Constitutionally Feasible Electoral Models

To determine whether the two-tier electoral model should be regarded as constitutionally preferable, the analysis must move beyond the mere rejection of the five-ballot model and assess competing designs under explicit constitutional and institutional parameters. At minimum, three models require comparison: the five-ballot simultaneous model, the Constitutional Court’s two-tier national–regional model, and other constitutionally feasible alternatives such as partial separation or simplification within a simultaneous design. Such a comparison is necessary because constitutional adjudication should not assume that one model is superior merely because the existing model is problematic. The more analytically sound approach is to test each model against the constitutional values most affected by electoral design.

In this article, the comparison may be structured around five parameters. First, the effectiveness of presidentialism, namely whether the model facilitates coherent national executive–legislative relations without producing unnecessary fragmentation. Second, the quality of representation, namely whether voters are able to distinguish clearly among electoral choices and whether political parties have adequate time for meaningful recruitment and platform development. Third, the burden of election administration, namely whether the KPU and polling officials can realistically administer the process without excessive logistical and human strain. Fourth, legal certainty, namely whether the model can be implemented without creating avoidable ambiguity concerning electoral timing, terms of office, and follow-up legislation. Fifth, the protection of voting rights, namely whether the design supports accessible, comprehensible, and non-discriminatory participation for voters, including vulnerable groups.

Judged by those parameters, the five-ballot model appears weakest in relation to administrative burden and voting-rights protection, because excessive simultaneity creates cognitive overload for voters and severe operational strain for election administrators. By contrast, the two-tier model appears stronger in terms of administrative manageability,

representational differentiation, and opportunities for governmental consolidation. However, it is not free from constitutional difficulty, especially regarding legal certainty and transitional arrangements concerning the periodicity of offices. Other constitutionally feasible alternatives may also deserve serious consideration, particularly if they can preserve some benefits of simultaneity while reducing administrative complexity through ballot simplification or partial separation. Therefore, the comparative analysis does not necessarily prove that the two-tier model is the sole constitutional answer; rather, it may show that the model is constitutionally persuasive relative to available alternatives, subject to further legislative refinement. The Court's model is thus best understood as a strong constitutional option, not as an unquestionable constitutional inevitability.

The Constitutionality of the Two-Tier (National-Regional) Electoral Model

The construction of an ideal electoral framework within the context of a democratic Rechtsstaat founded on the Constitution necessitates the establishment of an electoral system that not only ensures the full realization of the fundamental principles of elections but also supports effective governance, strengthens the presidential system, and guarantees the continuity of national and regional development. This subsection examines the constitutionality of the two-tier electoral model through an issue-norm-analysis-conclusion framework. Rather than presuming its validity from its expected benefits, the analysis assesses whether the model is compatible with Article 22E of the 1945 Constitution, consistent with Article 18 on regional autonomy, capable of being reconciled with Article 7 and the five-year electoral cycle, and aligned with the Constitutional Court's prior decisions, especially Decisions No. 14/PUU-XI/2013 and No. 55/PUU-XVII/2019.

Sumber: UUD 1945; Putusan MK No. 14/PUU-XI/2013; Putusan MK No. 55/PUU-XVII/2019; Putusan MK No. 135/PUU-XXII/2024.

First, in terms of the clarity of periodization and the continuity of electoral authority, the two-tier model provides constitutional certainty regarding the power cycle at both the national and regional levels. Such clarity is essential, as it pertains directly to the legitimacy and effectiveness of government functions in fulfilling constitutional mandates. Article 7 of the UUD NRI 1945 stipulates that the President and Vice President shall serve for a term of five years, a provision that also applies, *mutatis mutandis*, to members of the DPR, the DPD, and regional heads under the relevant sectoral legislation (Riqiey & Hadi, 2023). Under the five-ballot electoral system, simultaneous implementation risks overlapping terms of office, conflicting development planning cycles, and inconsistencies in the transition of power. By separating national and regional elections into two tiers, each locus of political authority is afforded a more certain, sustainable institutional space, insulated from the concurrent political pressures that could otherwise undermine administrative stability.

Second, the temporal separation between national and regional elections affords sufficient institutional space for political parties and political actors to conduct recruitment functions in a more substantive, deliberate, and participatory manner. As stipulated in Article 11 of Law Number 2 of 2011 concerning Political Parties, one of the core functions

of political parties is to carry out political recruitment in a democratic fashion (Suhaimi, 2021). Under the five-ballot electoral system, political recruitment tends to be rushed, driven by short-term electoral considerations, and ultimately results in candidate selection based on superficial popularity and financial resources. By contrast, within the two-tier electoral model, political parties are granted sufficient time to conduct internal consolidation, develop distinct ideological platforms for national and regional agendas, and actively engage constituents in determining legislative and executive candidates. High-quality political recruitment is a fundamental prerequisite for the emergence of substantive political representation and accountable governance.

Third, from the perspective of development planning, the two-tier electoral model directly supports the synchronization between the RPJMN and the RPJMD. This has constitutional implications, as development constitutes an explicit constitutional mandate under the UUD NRI 1945, particularly Article 33 (4), which provides that “the national economy shall be organized based on economic democracy with the principles of togetherness, equitable efficiency, sustainability, and environmental awareness...,” and Article 34 (3), which mandates the state to develop a national social security system. Development fragmentation, caused by the desynchronization between central and regional governments under the five-ballot simultaneous elections, impedes the realization of these constitutional objectives. Under the two-tier model, the RPJMN is first established by the newly elected President in conjunction with the DPR, and subsequently serves as a policy reference and planning framework for the formulation of the RPJMD by the regional heads and DPRD elected in the later regional elections. This arrangement fosters vertical continuity in development planning, strengthens the integration of cross-sectoral and interregional programs, and enhances the overall effectiveness in achieving the goals of national development.

Fourth, the two-tier electoral model also strengthens the independence and effectiveness of the electoral management body, namely the KPU, along with its subordinate structures at both the national and regional levels. As an independent body constitutionally mandated under Article 22E (5) of the UUD NRI 1945, the KPU is obligated to administer elections that are direct, general, free, confidential, honest, and fair (Pasaribu, 2019). Under the five-ballot simultaneous election format, the KPU has been burdened with an extraordinary concentration of responsibilities within a single electoral event, including the logistical management of five different ballots, the distribution of electoral documents across Indonesia’s vast archipelago, and the recruitment and training of millions of KPPS officers. This excessive burden has not only caused operational dysfunctions but has also posed serious risks to the independence and integrity of the electoral process, as evidenced by widespread human error, data entry mistakes, and even the tragic mass fatalities of electoral officials during the 2019 elections. With the separation of national and regional elections into two distinct tiers, the KPU is allowed to allocate its resources more effectively, refine logistical and data verification processes, and enhance the quality of electoral services at each level in a sequential manner. This restructuring not only

ensures the institutional sustainability of the KPU but also restores and reinforces the credibility of elections as a constitutional manifestation of the people's sovereignty.

Accordingly, the two-tier model may be defended as constitutionally arguable because it remains anchored in the constitutional text, is supported by the Court's prior jurisprudence on electoral simultaneity, and seeks to preserve the democratic character of regional government within Indonesia's decentralized order. Nevertheless, its constitutionality is not free from limits: the transition must be regulated by statute, must remain exceptional and proportionate, and must not be used to normalize deviations from the five-year electoral principle beyond what is strictly necessary for systemic adjustment.

CONCLUSION

Constitutional Court Decision Number 135/PUU-XXII/2024 represents a critical milestone in the reform of Indonesia's electoral political system. Through this ruling, the Constitutional Court undertakes a corrective effort to address the structural deficiencies inherent in the "five-box" electoral model, which has demonstrably generated technical complexities, diminished the quality of political representation, weakened party institutionalization, and disrupted the continuity of national and regional development. Beyond this, the Court proactively proposes a more constitutional electoral model, namely a two-tiered election system comprising national and regional elections held separately within a two-year interval. The separation of elections into two levels may be understood as a constitutionally defensible compromise between the need to preserve presidential system stability and the need to respect and uphold popular sovereignty, although its long-term legitimacy depends on whether it can be justified more convincingly than other constitutionally feasible models. Under this format, elections are repositioned as instruments of deliberative democracy, ensuring that citizens' rights to vote and be elected are exercised in a more meaningful, rational, and contextual manner. The two-tier model also provides institutional space for political parties to improve recruitment mechanisms and enhances coordination between national and local development planning.

As a product of progressive constitutional interpretation, this ruling requires the full support of all elements of the nation. Academics, civil society actors, and legislators play a central role in safeguarding the implementation of this decision by enacting harmonized legislation and promoting institutional consolidation that advances popular sovereignty. Under the principles of a democratic state governed by the rule of law, the implementation of this Constitutional Court decision constitutes a constitutional mandate to establish an electoral system that is fair, effective, and sustainable, thereby reinforcing democracy in Indonesia.

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