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Analysis of the Interpretation of the Constitutional Court Judge on the Decision on the Separation of General and Regional Elections

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Article Info	Abstract
Keywords: Constitutional Court; Constitutional Interpretation; Elections; Judicial Review; Democracy. Received : 07 Feb 2026 Revised : 13 July 2026 Accepted : 18 July 2026 *Corresponding author: muadin087@gmail.com  10.63288/jlc.v2i2.21	<i>The Constitutional Court, through Decision No. 135/PUU-XXII/2024, introduced a new electoral system by separating national elections from regional elections, with the stated aim of improving the quality of elections and reducing voter fatigue. However, this decision has sparked serious constitutional debate. The purpose of this study is to critically analyze the interpretive approach adopted by the justices of the Constitutional Court and to assess its conformity with Article 22E and Article 24C of the 1945 Constitution. This study employs a normative legal research method, using jurisprudential and juridical approaches, supported by primary, secondary, and tertiary legal sources. This study found that the Constitutional Court adopted a purpose-oriented and dynamic approach to constitutional interpretation, rather than a strict textual interpretation of Article 22E of the 1945 Constitution. This interpretive approach effectively transformed the Court's role from that of a "negative legislator" to that of a norm-setting institution through the redesign of Indonesia's electoral system. The findings also indicate that the decision reflects judicial activism that exceeds constitutional boundaries in the review of laws, thereby raising concerns regarding the abuse of constitutional authority and the principle of separation of powers. This study also found that efforts to improve the quality of elections should focus on institutional reform and electoral governance, rather than on constitutional amendments through judicial interpretation. Finally, this study can make an academic contribution by developing parameters to assess whether a Constitutional Court decision still constitutes constitutional interpretation or has evolved into constitutional norm-making.</i>

A. Introduction

Democracy is conceptually always identified with the holding of general elections. Elections are a fundamental element in a democratic country because they serve as the main means to legitimize power and obtain public office. From a historical perspective, the practice of democracy has been known since Ancient Greece, especially in Athens, as the forerunner of direct democracy. Classical thinkers such as Plato and Aristotle helped lay the conceptual foundations of democracy, which later evolved into the modern era. Samuel P. Huntington then introduced the theory of three waves of democracy, which describes the democratic process that spreads to different regions of the world.¹

Within the framework of Indonesia's constitutional legal system, the Constitutional Court, in Decision Number 135/PUU-XXII/2024 announced by Chief Justice Soehartoyo on 26 June 2025, introduced a constitutional framework that provides for the separation of the National Elections from the Regional Elections.² The decision basically states that the voting to elect members of the DPR, DPD, and the President and Vice President is carried out simultaneously, and then within a period of at least two years or a maximum of two years and

¹ Suhanoro dkk., *Sejarah Perkembangan Demokrasi Dan Pelembagaiaan Demokrasi* (Kramantara JS, 2025).

² Mahkamah Konstitusi, "Salinan Putusan Mahkamah Konstitusi Nomor 135/PUU-XXII/2024 tentang Pengujian UU Pemilu," 2024, <https://id.scribd.com/document/881087612/putusan-mkri-12830-1750924073>.



six months after the inauguration, simultaneous voting is carried out to elect the provincial DPRD, district/city DPRD, and regional heads.³

The Court's main consideration is to maintain the quality of elections by avoiding voter fatigue due to the complexity of simultaneous elections with five ballot boxes.⁴ However, the author believes that the decision is contrary to Article 22E of the 1945 Constitution of the Republic of Indonesia, which stipulates that elections must be held directly, publicly, freely, secretly, honestly, and fairly every five years.⁵ This norm systematically implies a fixed and continuous election period in a five-year cycle.⁶ Furthermore, the authority of the Constitutional Court as stipulated in Article 24C paragraph (1) of the 1945 Constitution is to test the law against the Constitution, not to create new norms that have implications for changes in the design of the electoral constitution.⁷ Therefore, the author is of the view that the Constitutional Court has interpreted beyond the limits of its authority (*ultra vires*) through the engineering of the electoral system that substantially deviates from the mandate of the constitution.

Constitutional interpretation really demands great attention. Jimly Asshiddiqie emphasized that in constitutional theory, even small deviations in interpretation, even punctuation, can give rise to constitutional disputes. A comprehensive interpretation must integrate the textual dimension with the historical, sociological, and philosophical context.⁸ Within this framework, the Constitutional Court is positioned as the guardian and interpreter of the constitution, but this role should not blur the line between its function in testing norms and formulating legal policies.

According to Keith E. Whittington and Larry D. Kramer, the constitutional court occupies the position of the highest interpreter of the constitution. Accordingly, its rulings acquire final and binding effect immediately upon their pronouncement. However, the principle of finality becomes problematic when judicial decisions are produced through processes that raise ethical concerns. This issue was prominently illustrated by Constitutional Court Decision Number 90/PUU-XXI/2023 concerning the age threshold for presidential and vice-presidential candidates, which generated substantial criticism from academics because it was widely perceived to involve conflicts of interest, thereby calling into question the integrity and impartiality of the Court.

In the author's paradigm, there are at least three fundamental problems. First, the Constitutional Court does not always produce populist and progressive decisions; it can also produce conservative ones. Second, ethical violations by judges are not followed by corrective

³ Akbar Raga Nata dan Muhammad Rifki Ramadhani Baskoro, "Analisis Dampak Putusan Hakim Mahkamah Konstitusi Terhadap Putusan MK Nomor 90/PUU-XXI/2023," *Sanskara Hukum dan HAM* 2, no. 02 (2023): 105–17, <https://doi.org/10.58812/shh.v2i02.288>.

⁴ Nurjamil, "Interpretasi dan Penemuan Hukum dalam Putusan Hakim," *Advokat Konstitusi*, 2022, <https://advokatkonstitusi.com/interpretasi-dan-penemuan-hukum-dalam-putusan-hakim/>.

⁵ Tim Redaksi Kamus Bahasa Indonesia, *Kamus Bahasa Indonesia* (Pusat Bahasa Departemen Pendidikan Nasional, 2008), <https://www.kemhan.go.id/itjen/wp-content/uploads/2017/04/Kamus-Besar-Bahasa-Indonesia-Mutatis-Mutandis-Hal-1078.pdf>.

⁶ Mohammad Mahrus Ali dkk., "Tindak Lanjut Putusan Mahkamah Konstitusi yang Bersifat Konstitusional Bersyarat Serta Memuat Norma Baru," *Jurnal Konstitusi* 12, no. 3 (2016): 631, <https://doi.org/10.31078/jk12310>.

⁷ Shidarta Shidarta, *Bedah buku Teori Hierarki Norma karya Jimly Asshiddiqie*, 2022, <https://doi.org/10.13140/RG.2.2.29875.09763>.

⁸ Pan Mohamad Faiz, "Penafsiran Konstitusi," Pusat Pendidikan Pancasila dan Konstitusi Mahkamah Konstitusi, 2022, https://pusdik.mkri.id/materi/materi_270_2.%20Penafsiran%20Konstitusi.pdf.

mechanisms for the decisions that have been given. Third, the Court tends to be reluctant to conduct reexamination even when there are serious ethical legitimacy issues.⁹

The Constitutional Court was born out of the spirit of reform in response to authoritarian constitutional practices. Over time, however, the Court has often featured two faces: as a guardian of the constitution when its decisions are populist, and as a political court when its decisions are conservative. In the context of Decision Number 135/PUU-XXII/2024, the separation of national and regional elections fails to address the root of election quality. The main problem lies in the weak professionalism of election organizers, the prevalence of money politics, and the suboptimal supervisory function of the Election Supervisory Agency.

Elections with integrity require professional, independent, transparent, and non-partisan implementation. Therefore, the authors believe the Court has overstepped its interpretation by shifting substantial issues into system-wide manipulation, potentially leading to a constitutional deadlock. The government faces a dilemma between implementing the Constitutional Court's decision or complying with the constitution, both of which have implications for constitutional violations and legal crises in the administration of the state.¹⁰

In order to position the novelty of this research strongly, there are several previous studies that are relevant to be examined related to the role of the Constitutional Court (MK) and its latest rulings. The first research by Ojak Nainggolan et al. (2025) comprehensively discussed the institutional role of the Constitutional Court in macro terms as a guardian of democracy in resolving election disputes, along with the institutional challenges it faces in constitutional practice.¹¹ Meanwhile, the second study by Gugun Gunawan et al. (2025) goes a step more specific by outlining the constitutional and political implications after the issuance of the Constitutional Court Decision Number 135/PUU-XXII/2024. The study emphasized that the separation of national and regional elections is a progressive step by the Constitutional Court to boost the quality of democracy, voter participation, and the institutionalization of the party system through a living constitution approach.¹²

However, there is a fundamental academic gap (literature gap) as both studies tend to focus on the macro-institutional area or policy impact after the verdict is rendered. Until now, there has been no study that critically dissects the upstream region of the Constitutional Court Decision Number 135/PUU-XXII/2024, especially regarding the interpretation methodology, legal rationality, and logical limits of constitutional interpretation adopted by Constitutional Court judges in forming norms for the separation of elections and regional elections. This is where this research comes in to fill the legal gap by shifting the focus of analysis from sociopolitical impacts to doctrinal evaluation of constitutional law hermeneutics. This study specifically examines the epistemological aspects of judges' interpretation to assess whether the interpretation method used in separating the electoral regime remains within the corridor of constitutional enforcement based on Article 22E and Article 24C of the 1945 Constitution,

⁹ Tri Wahyudiono dan Asmaul Husna, "Mahkamah Konstitusi Sebagai Peradilan Politik Di Indonesia," *Islamic Law: Jurnal Siyasah* 5, no. 2 (2020): 43–55, <https://doi.org/10.53429/iljs.v5i2.98>.

¹⁰ Fakhri Lutfianto Hapsoro dan Ismail Ismail, "Interpretasi Konstitusi dalam Pengujian Konstitusionalitas untuk Mewujudkan The Living Constitution," *Jambura Law Review* 2, no. 2 (2020): 139–60, <https://doi.org/10.33756/jlr.v2i2.5644>.

¹¹ Ojak Nainggolan dkk., "Analisis Peran Mahkamah Konstitusi dalam Penyelesaian sengketa Pemilu: Tinjauan dari Perspektif Hukum Tata Negara," *Jurnal Syntax Admiration* 6, no. 1 (2025): 628–42, <https://doi.org/10.46799/jsa.v6i1.2063>.

¹² Gugun Gunawan dkk., "Implikasi Konstitusional Putusan Mk Nomor 135/PUU-XXII/2024 Tentang Pemisahan Pemilu Nasional Dan Pemilu Daerah," *Jurnal Ilmu Hukum, Humaniora dan Politik* 6, no. 1 (2025): 629–38, <https://doi.org/10.38035/jihhp.v6i1.6351>.

or has actually jumped into a legislative function (positive legislator) that exceeds judicial authority (judicial overreach). Thus, the novelty of this research lies in the originality of the analysis of the limits of constitutional interpretation by Constitutional Court judges that have not been touched by previous studies.

B. Methodology

This type of research uses normative legal research believes that research that examines laws and regulations, legal principles and legal doctrine in an effort to solve legal problems.¹³ This research uses a case approach and a conceptual approach, the data source used is the Constitutional Court decision No.135/PUU-XXII/2024, with data collection techniques all primary and secondary data collected and qualified based on categories and data then processed.¹⁴ The role of the Constitutional Court in examining the law against the Constitution is considered important to assess the constitutional or unconstitutional status of a legal document. This study uses a normative research approach, collecting data from various literature sources. The approach used is a case study of laws and regulations. This study examines legal events in depth by analyzing information sources supported by primary, secondary, and tertiary data, focusing on the research in this study.

C. Results and Discussion

Application of the Theory of Interpretation of Constitutional Court Judges in the Examination of Law No. 7 of 2017 concerning General Elections against the 1945 Constitution in Indonesia

Pursuant to Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia, the Constitutional Court is vested with the authority to review the constitutionality of statutes against the Constitution. This authority constitutes the implementation of the judicial review mechanism, which is intended to uphold constitutional supremacy and to ensure that every statutory norm conforms to the Constitution as the supreme law of the state. From the perspective of Hans Kelsen's theory, the Constitutional Court functions as a negative legislator, meaning that it has the power to invalidate statutory provisions that are inconsistent with the Constitution, but it does not possess the authority to create or enact new legal norms. Accordingly, the Court's principal role is confined to assessing the constitutionality of legal norms, whereas the power to formulate and enact legislation remains within the competence of the legislative authority. In the present study, the analysis is not primarily concerned with judicial interpretation theory in general; rather, it focuses on Constitutional Court Decision Number 135/PUU-XXII/2024 concerning the judicial review of Law Number 7 of 2017 on General Elections. Consequently, the discussion begins with an examination of the *ratio decidendi*, namely the legal reasoning and considerations that formed the basis of the Court's decision.¹⁵

Based on the *ratio decidendi* of the decision, the Court considers that the simultaneous holding of elections as implemented so far raises various problems in administrative practice, including the high complexity of implementation, the increased workload of election organizers, the reduced quality of voter participation, and the weakening of the community's

¹³ H. Nur Solikin, *Pengantar Metodologi Penelitian Hukum*, 1 (CV. Penerbit Qiara Media - Pasuruan, Jawa Timur, 2021).

¹⁴ Jonaedi Efendi dan Johnny Ibrahim, *Metode Penelitian Hukum Normatif dan Empiris*, 1 (Prenada Media, 2018).

¹⁵ Sholahuddin Al-Fatih, "Model Pengujian Peraturan Perundang-Undangan Satu Atap Melalui Mahkamah Konstitusi," *Jurnal Ilmiah Hukum LEGALITY* 25, no. 2 (2018): 247, <https://doi.org/10.22219/jihl.v25i2.6005>.

evaluation function in the administration of government. On the basis of these considerations, the Court interpreted that the holding of national elections and regional elections can be carried out separately within a certain period of time. Thus, the ratio decidendi of the decision not only contains an assessment of the constitutionality of the norms of Law Number 7 of 2017, but also builds a new construction regarding the design of the implementation of elections in Indonesia.

If examined more deeply, the ratio decidendi shows that the Court uses a teleological and functional interpretation approach. The Court's consideration no longer solely rests on the textual meaning of Article 22E of the 1945 Constitution of the Republic of Indonesia, but rather emphasizes the purpose of holding elections that are considered to be able to improve the quality of democracy, the effectiveness of implementation, and the protection of citizens' constitutional rights. Such an approach is characteristic of the living constitution, which is a method of interpretation that adjusts the constitution to the development of society. However, from the perspective of constitutional law, this approach raises questions about the limits of the Court's authority. Article 22E of the 1945 Constitution of the Republic of Indonesia only regulates the principle of holding elections every five years and does not mandate the Court to determine the design of the implementation of national and regional elections. Therefore, this study assesses that the real constitutional issue does not lie in the choice of election model, but in whether the Court's ratio decidendi is still within the limits of judicial review authority or has shifted to the formation of new norms.¹⁶

In constitutional law, the doctrine of *ultra vires* is known, which is the principle that each organ of the state can only exercise the authority granted by the constitution or law. In the context of the Constitutional Court, the doctrine is closely related to the concept of judicial overreach, which is a situation when the court no longer only tests the constitutionality of norms, but enters the area of legal policy formation which is the authority of the lawmakers. Therefore, it is necessary to make a firm distinction between judicial review and judicial law-making. In the judicial review function, the Court only assesses the conformity of legal norms with the Constitution and declares the norms constitutional or unconstitutional. In contrast, judicial law-making occurs when the Court not only cancels norms, but also establishes new norms or determines the direction of legal policy. In the constitutional law literature, a decision is generally categorized as judicial overreach if it meets several indicators. First, the court establishes new legal norms that were not previously regulated in the constitution or the law. Second, the court determines the choice of legal policy which is constitutionally the authority of lawmakers. Third, the court changed the design of the constitutional system without a clear textual basis in the constitution. Fourth, the decision produces a norm that is prospective and generally applicable as the character of the legislation product.

If these indicators are applied to the Constitutional Court Decision Number 135/PUU-XXII/2024, it appears that the first indicator is fulfilled because the Court builds a new normative construction regarding the separation of national and regional elections that was previously not explicitly regulated in Article 22E of the 1945 Constitution of the Republic of Indonesia or Law Number 7 of 2017. The second indicator is also seen because the Court determines the direction of the legal policy regarding the design of the implementation of elections, even though the policy is in principle the authority of the lawmakers. Meanwhile, the third indicator is still debatable because the Court did not change the institutional structure of

¹⁶ Antoni Putra, "Dualisme Pengujian Peraturan Perundang-Undangan," *Jurnal Legislasi Indonesia* 15, no. 2 (2018): 69–79, <https://doi.org/10.54629/jli.v15i2.172>.

the state, but changed the design of holding elections that had an impact on the constitutional system. The fourth indicator is fulfilled because the ratio decidendi of the decision produces a prospective norm and becomes a guideline for lawmakers in making changes to the electoral system in the future.¹⁷

Based on the foregoing analysis, this study contends that Constitutional Court Decision Number 135/PUU-XXII/2024 reflects a discernible shift in the Court's constitutional role from that of a negative legislator toward a function more closely associated with judicial law-making. This development should not automatically be interpreted as evidence that the Court has acted contrary to the Constitution. Rather, it provides a reasoned basis for identifying indications of judicial overreach that warrant critical examination, particularly with respect to the constitutional limits of the Court's authority. Accordingly, the use of the term *ultra vires* in this study is not intended to serve as a normative characterization of the Constitutional Court. Instead, it is employed as an analytical concept derived from an examination of the Court's ratio decidendi, which demonstrates a tendency to formulate new legal norms extending beyond the traditional function of a negative legislator. In conclusion, this study finds that Constitutional Court Decision Number 135/PUU-XXII/2024 illustrates an expansion of the Court's institutional role through constitutional interpretation. While such an approach may be motivated by the objective of strengthening democratic governance, its exercise must remain subject to the principle of the separation of powers to ensure that the Court does not encroach upon the legislative authority vested in the law-making institution.

The interpretation of the constitution can have differences, this is because the educational background of judges with the doctrine built by judges since studying law so that not all judges can interpret the constitution with the same meaning, there are various interpretations carried out by judges, especially judges who are not in the field of state administration even though the Constitutional Court Law to be able to become a constitutional judge must master the administration of the state and the constitution. The theory of judge interpretation is divided into 2 groups, originalist and non-originalist as the basis for referencing judges in interpreting the constitution.¹⁸

In the judge's interpretation, 3 theories emerged that are often used in interpreting decisions at the Constitutional Court. *First*, Judicial Activism, where judges open up a broader interpretation in making interpretations. In general, judicial activism is understood as a condition in which judges help shape the law through their decisions (judges make laws). Brian Galligan describes judicial activism as a form of control or intervention by the judiciary over political and administrative institutions of government.¹⁹ *Second*, judicial restraint, known for its rigidity in constitutional interpretation, requires judges to refrain from interpreting the constitution. However, the doctrine of judicial restraint requires certain conditions to require judges and courts to be more careful in interpreting the law, allowing them to create new legal norms or change existing norms in the Constitution.²⁰ *Third*, A Living Constitution is a form of judicial interpretation that adjusts to the needs of the community, even though there is a law

¹⁷ Victor Imanuel W. Nalle, "Konstruksi Model Pengujian Ex Ante terhadap Rancangan Undang-Undang di Indonesia," *Jurnal Konstitusi* 10, no. 3 (2016): 439, <https://doi.org/10.31078/jk1034>.

¹⁸ Idul Rishan, *Teori dan Hukum Konstitusi*, 1 (Sinar Grafika, 2024).

¹⁹ Pan Mohamad Faiz, "Dimensi Judicial Activism Dalam Putusan Mahkamah Konstitusi (Dimensions of Judicial Activism in the Constitutional Court Decisions)," *SSRN Electronic Journal*, advance online publication, 2016, <https://doi.org/10.2139/ssrn.2847500>.

²⁰ Wicaksana Dramanda, "Menggagas Penerapan Judicial Restraint Di Mahkamah Konstitusi," *Jurnal Konstitusi* 11, no. 4 (2016): 617, <https://doi.org/10.31078/jk1141>.

that prohibits it. However, when the benefits of breaking the law are greater, judges can interpret it based on the needs of the community. Zainal Arifin Mochtar argues that there is room for compromise between the two views. According to him, the concept of a living constitution should not be considered as a doctrine that ignores the history of constitutional formation, because the values of the original intention must be accommodated as long as they are in harmony and harmony with the social context of the society at that time.²¹

In every interpretation of the constitution, of course, there is a different discourse where the pragmatist group considers that the constitution is just a creation of the past that has no correlation in answering complex problems in the present, the group of constitutional intentions is something living that is able to survive from time to time the constitution maker aims to form the constitution for a long time. There is an interesting opinion put forward by Madison that the durability of the constitution is important the longer the age of the constitution the better, in contrast to Jefferson the constitution can only last a maximum of 19 (nineteen years) and at the age of twenty the constitution must be amended to adapt to the development of the times. According to Novendri M. Nggilu, the constitution must have the ability to respond to dynamic conditions of society.²²

Mahfud MD stated that constitutional changes are a reality that will definitely be carried out in constitutional theory, because the constitution itself is the final result (*resultante*) of the political, economic, social, and cultural dynamics (Poleksosbud) that develop in a country.²³ According to A. Mustanir, the constitution describes the form of government that will be used, the system of government that will be used, and so on.²⁴ Therefore, the constitution has a rigid character in formulating a constitution with a long-term vision of the future with the challenges of the complex times so that constitutional changes are not carried out carelessly but are carried out in circumstances where the development of the times exceeds the written text of the constitution so that the constitution becomes part of the development of the times in the country's legal system, especially in Indonesia.

Of the 3 models of interpretation theory of constitutional judges above, they have different preferences, so if asked which interpretation theory is correct to be carried out again in the originalist and non-originalist groups, each interpretation of the constitution must be interpreted carefully, even though the constitution is not a holy book, the constitution is the embodiment of the political agreement contract of the community as stated in the constitution. However, the author prefers the originalist group because the Constitutional Court's prudence in interpreting the constitution must be more rigid because the broader the interpretation of the Constitutional Court, the farther it is from the constitutional text.

Adaptation to the needs of society cannot be completely separated because the law is made for the people, not the society for the law. Because the constitution's position is higher in technical terms, it must be regulated more flexibly by implementing regulations and law-making institutions to prevent the shift of the Constitutional Court's function in testing laws

²¹ Hapsoro dan Ismail, "Interpretasi Konstitusi dalam Pengujian Konstitusionalitas untuk Mewujudkan The Living Constitution."

²² Firmansyah Firmansyah, "Perubahan Konstitusi : Dinamika Politik Dan Hukum Dalam Negara Yang Demokratis," *Istinbath : Jurnal Hukum* 18, no. 2 (2021): 303–25, <https://doi.org/10.32332/istinbath.v18i2.3629>.

²³ Muwaffiq Jufri, "Urgensi Amandemen Kelima pada Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Terkait Hak dan Kebebasan Beragama," *Jurnal HAM* 12, no. 1 (2021): 123, <https://doi.org/10.30641/ham.2021.12.123-140>.

²⁴ Ning Ayunda Chofifi dan Eny Kusdarini, "Perkembangan Putusan Mahkamah Konstitusi dalam Menangani Perkara Perselisihan Hasil Pemilihan Umum Presiden," *Jurnal Hukum IUS QUIA IUSTUM* 31, no. 2 (2024): 408–33, <https://doi.org/10.20885/iustum.vol31.iss2.art8>.

against the Constitution, turning into new norm makers. Consequently, when the Constitutional Court establishes new norms, it creates instability in the system of government because the Constitutional Court in its interpretation must be full of caution, while the law-making institution, the House of Representatives, in its competence as a lawmaker, is strange if the Constitutional Court deviates too much from its role and function as a legal storyteller.

The Impact of the Constitutional Court Decision No. 135/PUU-XXII/2024 on Election Stability in Indonesia

Election issues are bound to arise wherever there are diverse dynamics in elections, including dissatisfaction with allegations of fraud in the election process and results. Elections are an important element in a democratic country. The health of the democratic system depends on the ongoing implementation of elections, with regime change occurring every time a snap election keeps democracy alive. According to Alfiah, election fraud or manipulation is illegal interference in the election process, either by increasing the share of votes of supported candidates, reducing the share of votes of competing candidates, or through a combination of both.²⁵ According to Sidel, electoral fraud in developing countries is often disguised in procedural forms that appear to be administratively legitimate but are intended to change the outcome.²⁶

Highlighting Decision No. 135/PUU-XXII/2024 which grants part of the request for the separation of elections at the central level and elections at the regional level makes the implementation of controversial elections to be seen with a tiered design between the central and regional levels as an effort to create quality elections. Expert opinion answer: "Members of the House of Representatives as a result of the 1955 election had a term of office of less than five years and were then replaced by members of the House of Representatives. Members of the House of Representatives and the House of Representatives as a result of the 1971 election were extended their term of office until they were inaugurated by members of the House of Representatives and the House of Representatives as a result of the 1977 election. Then the members of the House of Representatives and the House of Representatives as a result of the 1997 election were shortened in their terms to be replaced by members of the House of Representatives and the House of Representatives due to the 1999 election." Term cuts through law may not occur during terms where previous laws had promised a full five-year term.

In legal principles, there is a non-retroactive principle of non-retroactive law which allows the term of office of the DPRD, DPD, Governor, Regent and Mayor to be extended by engineering between 2 years - 2.6 years. The choice of holding elections simultaneously every 5 years is better than tiered engineering because the holding of elections occurs in a transactional and undemocratic manner so that simultaneous efforts can strengthen small political parties, especially the Constitutional Court in Case Number 62/PUU-XXII/2024. The Constitutional Court ruled that the elimination of the presidential threshold can strengthen the competence of political parties in nominating presidential and vice presidential candidates. In this context, democracy is not only interpreted as a procedure for forming a democratic

²⁵ Ade Arifin dkk., "Kecurangan yang terjadi dalam pemilihan umum di Indonesia," *Sosio Religi: Jurnal Kajian Pendidikan Umum* 23, no. 1 (2025): 1–8, <https://doi.org/10.17509/sosioreligi.v23i1.82383>.

²⁶ Yosia Agustiant Parulian dkk., "Temuan Kotak Suara Kosong Di Lampung Barat: Dugaan Kelalaian Atau Indikasi Kecurangan Pemilu 2024," *Jurnal Kajian Hukum dan Kebijakan Publik* 2, no. 2 (2025), <https://doi.org/https://doi.org/10.62379/k2542e49>.

government, but also as the realization of citizens' rights and obligations that are carried out democratically in the life of the state.²⁷

Election fraud, a culture of money politics, and political cartels pose a real threat. Therefore, it is crucial to examine the substance of election administration, which is firmly rooted in the traditional communities targeted by politicians. According to Anjasuma, identity politics and disproportionate abuse of power have the potential to damage the integrity of elections. Such conditions risk creating inequities in the distribution of votes and could undermine public trust in the democratic process, which must be fair and transparent.²⁸

The state must return to the rule of law by deploying all instruments to tighten sanctions against election violations. Democracy demands that sovereignty be in the hands of the people, as enshrined in the written constitution. Today, however, politicians, as Mansyur points out, exploit a lot of polarization to achieve their political goals.²⁹ Those who are elected through the electoral process, as part of democratic practices, occupy key positions in legislatures, political parties, the business world, civil society organizations, and even bureaucracies.³⁰

Although the effects of democracy are generally positive, this does not mean that democracy is a perfect system, as Aristotle argued that democracy is aggressive and unstable, and tends toward tyranny.³¹ In fact, the democratic method is to reach a political agreement based on a common will through a competitive struggle to get the people's vote. The history of the development of democracy in Indonesia has its own history, because the elections held in 1955 are known as fairly democratic elections compared to the next elections. In Indonesia, the journey of democracy is quite long even though this country has only been independent for less than a century, but the readiness to carry out elections shows that even though Indonesia is ready, despite the unstable conditions at the beginning of independence, during the regime of Abdurahman Wahid, elections were held in Indonesia.

Since Indonesia's first general election in 1955, elections have been conducted on a regular basis, reflecting the country's ongoing democratic development. The conduct of competitive elections and the peaceful transfer of political power have become important indicators of substantive democracy. Throughout its constitutional history, Indonesia has experienced several democratic phases, namely Parliamentary Democracy (1945–1959), Guided Democracy (1959–1965), Pancasila Democracy (1966–1998), and the Reform Era Democracy (1998–present). Each of these periods was marked by distinct political dynamics, varying levels of governmental stability, and different limitations on state power. Nevertheless, the principle of popular sovereignty has consistently remained the cornerstone of Indonesia's democratic system. As argued by John Locke, governmental authority is not absolute but

²⁷ Nita Permata dan Uswatun Khasanah, "Budaya Money Politics Dan Identity Politics Dalam Pemilihan Umum Di Indonesia," *Jurnal Legislatif* 4, no. 1 (2020), <https://doi.org/https://doi.org/10.20956/jl.v4i1.12323>.

²⁸ Deden Ihm Rahman, "Tantangan Dan Harmoni Antara Keadilan Dan Kepastian Hukum Dalam Pemilu Serentak Di Indonesia," *Jurnal Sultan: Riset Hukum Tata Negara* 2, no. 1 (2023), <https://ejurnal.iainpare.ac.id/index.php/sultan/article/view/5620/1649>.

²⁹ Jauhar Nashrullah, "Polarisasi Masyarakat Pada Penyelenggaraan Pemilihan Umum Di Indonesia Dalam Kajian Sosiologi Hukum," *Realism: Law Review* 1, no. 2 (2023): 20–38, <https://doi.org/10.71250/rlr.v1i2.15>.

³⁰ Andika Adhyaksa dan Fathurrahim Fathurrahim, "Kondisi Materiil Peraturan Perundang-Undangan Dalam Aspek Pembentukannya Dengan Penggunaan Artificial Intelligence," *Nomos: Jurnal Penelitian Ilmu Hukum* 5, no. 3 (2025), <https://doi.org/10.56393/nomos.v5i3.2943>.

³¹ Dadang Supardan, "Sejarah dan Prospek Demokrasi," *Sosio-Didaktika: Social Science Education Journal* 2, no. 2 (2015): 125–35, <https://doi.org/10.15408/sd.v2i2.2811>.

derives from the consent and trust of the people. Consequently, such authority is inherently limited and cannot legitimately usurp the people's fundamental law-making power.³²

Elections inherently present both opportunities and challenges for the future of a democratic system. However, the most significant concerns are the potential violations of the electoral process and disputes over election results. In every electoral process, the Constitutional Court serves as the institution vested with the authority to adjudicate disputes concerning election outcomes. Although allegations of electoral fraud frequently arise, such claims cannot be presumed to be true and must instead be substantiated with sufficient legal evidence before the Constitutional Court.³³ What kind of violation is the Constitutional Court. Bisariyadi et al. grouped potential problems in the implementation of elections into three main categories, namely administrative violations, election crimes, and disputes over election results. The provision of a mechanism for resolving Election Results Disputes (PHPU) at the Constitutional Court aims to ensure the implementation of quality elections, through the enforcement of election laws as part of efforts to strengthen and deepen democracy. Relying on the principles of democratic elections such as *LUBER JURDIL*, this process is expected to produce credible decisions and gain legitimacy from all interested parties.³⁴

Legal facilities are considered a form of dissatisfaction with the election results. It is very unlikely that the Constitutional Court will decide by holding a so-called re-election (PSU). Even if it happens, it will only have an impact on certain areas where it is possible to prove it rationally in the Constitutional Court, which is very difficult with 3 conditions when it comes to election violations that are carried out systematically, structurally and massively with accurate data and supported by testimony that can convince the judge.

Before the author elaborates on strategies and measures to improve the quality of elections, it is important to identify the characteristics of voters in Indonesia's democratic tradition. Elections are a celebration of the people, and although the people are sovereign, elected officials have an advantage. Therefore, as a leader, the author will categorize the different types of elections in our society. *First*, rational elections prioritize choices based on basic reasons, such as the character and track record of prospective leaders. According to Bingham Powell & Whitten, rational voters prioritize prospective analysis, focusing on voters' tendency to critically evaluate programs proposed by candidates and political parties. In making choices, rational voters usually focus on microeconomic aspects, especially variables such as unemployment and per capita income, as the basis for evaluating proposed policy programs.³⁵ *Second*, traditional voters, those who do not base their choices solely on the fact of having money, often vote for them. Materialistic political transactions often occur among those who are economically disadvantaged, when political actors promise certain aid or

³² Evi Purnamawati, "Perjalanan Demokrasi Di Indonesia," *Solusi* 18, no. 2 (2020): 251–64, <https://doi.org/10.36546/solusi.v18i2.290>.

³³ Syahrul Nugraha Baderung dkk., "Sengketa Pemilihan Umum dan Implikasinya terhadap Stabilitas Ketatanegaraan di Indonesia," *Politika Progresif: Jurnal Hukum, Politik dan Humaniora* 2, no. 1 (2025): 44–52, <https://doi.org/10.62383/progres.v2i1.1286>.

³⁴ Dewi Krisna Hardjanti, "Penegakan Hukum Pemilu Dalam Upaya Menjaga Stabilitas Politik Indonesia: Pra, Pelaksanaan, Dan Pasca Pemilu 2024," *Konferensi Nasional Asosiasi Pengajar Hukum Tata Negara dan Hukum Administrasi Negara* 1, no. 1 (2023): 29–54, <https://doi.org/10.55292/q7c34567>.

³⁵ Egfa G. Tuanany dkk., "Analysis of Decision of The Honorary Council of The Constitutional Court Number 2/MKMK/L/11/2023 Based on The Constitutional Court Regulation Number 1 of 2023 Concerning the Honorary Council of The Constitutional Court," *Journal of Legal Contemplation* 1, no. 2 (2025): 71–83, <https://doi.org/10.63288/jlc.v1i2.7>.

resources in exchange for electoral support or political involvement.³⁶ Politics without a dowry is like putting a camel through a pinhole, because it is impossible for political parties and candidates to rely on political dowry to secure support for victory. Political dowry is also partly due to materialism, which encourages the desire for money and goods to satisfy the senses.³⁷

The three pragmatic voters are usually filled by people who do not trust the government, they do not use their political right to vote on the ballot paper but use their political right not to vote with the so-called white group (*Golput*). *Golput* is a form of public criticism of the government's failure to discriminate, prioritizing certain groups so that the abstaining step is considered a solution in every election moment. Which will have an impact on the decline in the quality of democracy. The phenomenon of abstention is largely triggered by public disappointment with the performance of political parties and the government which is considered less than optimal. This situation must be a basis for reflection as well as motivation for both institutions to strengthen the effectiveness of their role as the main pillars of democracy oriented towards the achievement of good public governance.³⁸

The character formation described above is not without cause but the result of reflection on previous elections with the attitude of an authoritarian, arrogant, arbitrary regime so that rational groups will sort and vote based on the scientific considerations of a leader, while materialist and pragmatic groups are not very important in elections. Strategic steps that must be taken as an effort to improve elections are in state institutions and political actors because downstream can be improved if upstream has been improved.

- a. Good regulation (non-political regulation)
- b. Independent (all election organizing agencies must be independent)
- c. Neutral Bureaucracy
- d. Quality and Integrity of Election Participants
- e. Citizens' Freedom to Choose
- f. Fair Competition Between Election Participants
- g. Peaceful and Fair Election Process
- h. Election Law, Participants, Organizers, Election Supervisors
- i. Law enforcement of independent judicial institutions.

The following is an important part of creating quality elections, if at least all of the above elements are met, then almost 100% of the election is perfect even though there is still a possibility of fraud in every election because the author believes that every political actor must be smarter than the organizers of state institutions so that there must be a fraud gap in every election. Election readiness between voters and candidates is better prepared for voters, therefore the culture of irregularities in elections must be recognized together, especially government elements. The organization of elections must be based on the principles of professionalism and independence, by placing the organizers outside the influence of executive power or electoral political interests.³⁹

³⁶ Edward Aspinall dan Ward Berenschot, *Democracy for Sale: Pemilihan Umum, Klientelisme, Dan Negara Di Indonesia*, Cetakan kedua, trans. oleh Edisius Riyadi (Yayasan Pustaka Obor Indonesia, 2020).

³⁷ Anak Agung Ngurah Agung Wira Bima Wikrama, "Politik Mahar Di Indonesia: Antara Ada dan Tiada," *Jurnal Ilmiah Cakrawarti* 1, no. 2 (2020): 19–29, <https://doi.org/10.47532/jic.v1i2.13>.

³⁸ H. Soebagio, "The Implications of White Groups in the Perspective of Democratic Development in Indonesia," *Study of Makara Human Behavior in Asia* 12, no. 2 (December 1, 2008): p. 85, <https://doi.org/10.7454/mssh.v12i2.171>.

³⁹ Eza Tri Yandy dkk., "Freedom of Expression and Its Implications for Citizens' Constitutional Rights Following Constitutional Court Decision No. 36/PUU-XX/2022," *Journal of Legal Contemplation* 2, no. 1 (2026): 22–35, <https://doi.org/10.63288/jlc.v2i1.17>.

The core problem with elections lies in the ambition of competent participants to win. Therefore, various efforts are made using all movement instruments to achieve victory. The most important thing for every individual is to prioritize moral politics. Politics, as a means of achieving goodness through the articulation of interests, must be based on honesty. Honesty is the main prerequisite for achieving the ideals of virtue in political governance. Unfortunately, in practice, these ideals are often undermined by the actions of politicians who deviate from the principles of public morality.⁴⁰

Moral values such as honesty, loyalty, and justice are universal and inherent in human beings, reflecting ethical standards that are considered appropriate and correct to be practiced in social life.⁴¹ Skepticism about the promise of quality elections will continue to haunt academics, even those who are truly rational election observers, but improving elections must be pursued with the same fervor.

D. Conclusion

Based on the results of the research, it can be concluded that the Constitutional Court Decision Number 135/PUU-XXII/2024 shows the use of constitutional interpretation methods that tend to be teleological, functional, and oriented towards the concept of a living constitution. Through this approach, the Court not only assesses the constitutionality of the norms in Law Number 7 of 2017 concerning General Elections, but also builds a new normative construction regarding the separation of national and regional elections. From the perspective of Hans Kelsen's theory, this condition shows a tendency to shift the function of the Court from a negative legislator to a role that resembles judicial law-making. Analysis of the ratio decidendi of the decision shows that the Court's legal considerations are no longer solely oriented to the textual meaning of Article 22E of the 1945 Constitution of the Republic of Indonesia, but also consider the effectiveness of the holding of elections, the quality of democracy, and the protection of citizens' constitutional rights. Although the goal is intended to improve the electoral system, this study finds indications of judicial overreach because the Court has determined the direction of legal policy which is basically the authority of lawmakers. Therefore, the use of the concept of ultra vires in this study is understood as an instrument of analysis of the limits of the Court's constitutional authority, not as an assessment that the Court absolutely acts outside the constitution.

Furthermore, this study shows that the Constitutional Court Decision Number 135/PUU-XXII/2024 has significant implications for the constitutional system and the implementation of elections in Indonesia. The decision has the potential to increase the effectiveness of the implementation of elections through the separation of the stages of national and regional elections, but on the other hand it also has consequences for legal certainty, the design of electoral institutions, and the relationship of authority between the Constitutional Court and the lawmakers. Thus, the balance between constitutional protection and respect for the principle of separation of powers must remain the main foundation in any practice of constitutional interpretation. Based on these findings, this study recommends that the Constitutional Court in interpreting the constitution remain guided by the limits of authority granted by the 1945 Constitution of the Republic of Indonesia so that the judicial review function does not develop into the formation of legal policy which is the authority of the

⁴⁰ Prihatin Dwi Hantoro, "Etika dan Kejujuran Dalam Berpolitik," *Politika: Jurnal Ilmu Politik*, 4, no. 2 (2014), <https://doi.org/https://doi.org/10.14710/politika.4.2.2013.13-20>.

⁴¹ Yan Yusuf Subu, "Aktualisasi Moralitas Dalam Kehidupan Berpolitik," *Jurnal Masalah Pastoral* 7, no. 1 (2019): 1–15, <https://doi.org/10.60011/jumpa.v7i1.85>.

lawmakers. In addition, lawmakers need to immediately make adjustments to Law Number 7 of 2017 by formulating more clearly the design for holding elections after the Constitutional Court Decision Number 135/PUU-XXII/2024 to ensure legal certainty and avoid multiple interpretations in its implementation. Further research is also recommended to compare the practice of constitutional interpretation by constitutional courts in various countries in order to formulate the ideal boundary between the functions of judicial review and judicial law-making in the Indonesian constitutional system.

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