

**JLPH:**
**Journal of Law, Politic
and Humanities**

E-ISSN: 2962-2816
P-ISSN: 2747-1985

<https://dinastires.org/JLPH> dinasti.info@gmail.com +62 811 7404 455

DOI: <https://doi.org/10.38035/jlph.v6i5>
<https://creativecommons.org/licenses/by/4.0/>

Constitutional Democracy and Regulatory Vacuum During the Transition Period: A Study of Constitutional Court Decision No. 135/PUU-XXII/2024

Abdi Edison^{1*}, Made Warka²

¹Faculty of Law, University of 17 August 1945 Surabaya, Indonesia

²Faculty of Law, University of 17 August 1945 Surabaya, Indonesia

*Corresponding Author: abdiedison@surel.untag-sby.ac.id

Abstract: This study aims to examine the constitutional issues arising from the lack of regulations regarding the transition period for members of the Regional People's Representative Council (DPRD) following the issuance of Constitutional Court Decision No. 135/PUU-XXII/2024, while also formulating a regulatory model consistent with the principles of constitutional democracy. The Constitutional Court's decision has altered the structure of simultaneous elections by separating national elections from local elections. This change has created a mismatch between the end of the terms of office for DPRD members elected in the 2024 general election and the timing of the next local elections. This situation has the potential to create a legal vacuum (*rechtvacuum*), leading to legal uncertainty and raising issues of democratic legitimacy in the administration of local government. This study employs a normative legal research method using a statutory approach, a conceptual approach, and a case study approach. The research analysis is based on the theory of constitutional democracy, the theory of legal vacuum (*rechtvacuum*), the theory of legitimacy, the theory of political representation, and the theory of constitutional engineering. The results of the study indicate that the absence of transitional norms has the potential to undermine the principles of popular sovereignty, the rule of law, and political representation—all of which are constitutionally guaranteed under the 1945 Constitution of the Republic of Indonesia. Among the alternatives under consideration, the hybrid transitional model is viewed as the most suitable option for implementation within the context of Indonesia's constitutional system. This model combines a limited, one-time extension of the terms of office for members of the Regional People's Representative Council (DPRD) with the holding of local elections at a time explicitly stipulated by law. Such an arrangement is deemed capable of striking a balance between legal certainty, democratic legitimacy, the continuity of local government administration, and the protection of citizens' constitutional rights. Therefore, it is necessary to establish transitional norms through legislative amendments that comprehensively regulate the transitional mechanism for the terms of DPRD members following the implementation of Constitutional Court Decision No. 135/PUU-XXII/2024.

Keyword: Constitutional Democracy, Regional People's Representative Council (DPRD), Transition Period, Legal Vacuum, Constitutional Court Decision No. 135/PUU-XXII/2024.

INTRODUCTION

The General elections are a fundamental mechanism in a constitutional democratic system that serves to actualize the principle of popular sovereignty as affirmed in Article 1, paragraph (2) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). Within the framework of a democratic state governed by the rule of law, general elections are not merely understood as a procedure for the periodic transfer of power, but also serve as an instrument that provides constitutional legitimacy to the process of governance. Thus, the design of the electoral system must be based on the principles of legal certainty, popular sovereignty, and the guarantee of citizens' constitutional rights to vote and to be elected.

The dynamics of constitutional law in Indonesia demonstrate that the framework for simultaneous elections has continually evolved through various decisions of the Constitutional Court (MK). Following Constitutional Court Decision No. 14/PUU-XI/2013—which served as the basis for implementing the “five-box” simultaneous election model in the 2019 and 2024 elections—the Constitutional Court once again restructured the election design through Decision No. 135/PUU-XXII/2024. Through this decision, the Court established a separation between National Elections—which include the election of the President and Vice President, members of the House of Representatives (DPR), and members of the Regional Representatives Council (DPD)—and Local Elections, which encompass the election of regional heads as well as members of Provincial Regional Representative Councils (DPRD) and Regency/Municipal Regional Representative Councils (DPRD). Local Elections must be held no sooner than two years and no later than two years and six months after the National Elections. Essentially, this policy is aimed at improving the quality of democracy, reducing the complexity of election administration, and strengthening the effectiveness of political representation at both the national and regional levels.

From a theoretical perspective, the separation of national and local elections can be viewed as a step toward strengthening constitutional democracy by distinguishing the spheres of political competition at the national and regional levels. This line of thinking aligns with Larry Diamond's view, which emphasizes that the quality of democracy depends not only on the existence of elections but also on the effectiveness of institutions capable of ensuring political representation and government accountability. However, the changes to the electoral design resulting from Constitutional Court Decision No. 135/PUU-XXII/2024 have actually given rise to a new legal issue that has yet to be clearly addressed within Indonesia's legal framework—namely, the mechanism for filling Regional Legislative Council (DPRD) seats during the transitional period following the expiration of the terms of DPRD members elected in the 2024 elections.

This issue stems from a discrepancy between the end of the terms of DPRD members elected in the 2024 General Election and the election schedule based on the new electoral design established by the Constitutional Court. DPRD members elected in the 2024 General Election will conclude their terms in 2029, while the election of the next DPRD members will no longer be held concurrently with the 2029 National General Election but will instead be part of the Local Elections, which, under the new framework, may be held no later than 2031. This situation implies the emergence of a time gap that could potentially lead to a vacancy in DPRD member positions, whereas provisions addressing such a situation have not yet been found in the 1945 Constitution of the Republic of Indonesia, Law No. 7 of 2017 on General Elections, or other relevant legislation. Various recent studies also indicate that the separation of national and local elections could raise issues regarding the term lengths of office and result in a vacuum in democratic representation if not accompanied by adequate transitional provisions.

From a constitutional law perspective, this situation raises at least three fundamental constitutional issues. First, there is a possibility of a legal vacuum (*rechtvacuum*) regarding the membership status of the Regional People's Representative Council (DPRD) during the

transitional period between the end of the term of DPRD members elected in the 2024 General Election and the holding of local elections after 2029. To date, there are no provisions explicitly regulating whether this legal vacuum will be addressed through an extension of terms of office, the appointment of replacement officials, or other similar mechanisms. Yet, in a state governed by the rule of law, every action taken by government authorities must have a clear legal basis as a manifestation of the principle of legal certainty guaranteed by Article 28D, paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Second, this situation also has the potential to conflict with the principle of popular sovereignty as stipulated in Article 1, paragraph (2) of the 1945 Constitution of the Republic of Indonesia. If vacancies in the Regional People's Representative Council (DPRD) are filled through a mechanism of appointment or nomination by the government, such a method risks contradicting the principle of representative democracy, as DPRD members are fundamentally the political representatives of the people who derive their legitimacy through the general election process. Conversely, if the chosen solution involves extending terms of office without holding elections, this measure could also raise constitutional issues because it extends the political mandate beyond the term previously granted by the people through elections.

From the perspective of constitutional democracy, the legitimacy of power must be limited by a constitutionally defined term of office to prevent deviations from the principle that governmental power derives from the people. Third, Constitutional Court Decision No. 135/PUU-XXII/2024 has the potential to create a normative conflict with the provisions of Article 22E(1) of the 1945 Constitution of the Republic of Indonesia, which stipulates that elections shall be held directly, universally, freely, by secret ballot, honestly, and fairly every five years. From a conceptual standpoint, the separation between national and local elections raises questions regarding the sustainability of the five-year term principle for members of the Regional People's Representative Council (DPRD). If the term of office is extended beyond five years, there is a possibility of deviating from the principle of five-year election cycles, which has long been a defining characteristic of electoral democracy in Indonesia. Conversely, if the term of office ends before reaching five years, issues will arise regarding the protection of the political rights of officials elected through elections, as well as legal certainty in the administration of local government.

These issues are increasingly relevant to analyze, given that the Regional People's Representative Council (DPRD) holds a crucial position as one of the key components of local government administration, as affirmed in Article 18, paragraph (3) of the 1945 Constitution of the Republic of Indonesia. When a vacancy occurs in a DPRD member's position, the consequences not only affect the dimension of political representation for the local community but also have the potential to hinder the DPRD's primary functions, which include legislation, budgeting, and oversight of the administration of local government. Therefore, the issue regarding the transitional period for filling DPRD member vacancies cannot be viewed merely as an administrative matter in the conduct of elections; rather, it has evolved into a constitutional issue closely tied to the sustainability of democracy at the local level and the effectiveness of local government governance. Within the framework of constitutional democracy theory, the constitution is not only understood as an instrument to limit state power but also as a means to ensure the continuity of democratic institutions so that they continue to operate in accordance with the principles of the rule of law and popular sovereignty. On this basis, any change in the design of the electoral system must be accompanied by adequate transitional provisions to ensure a balance between legal certainty, democratic legitimacy, and the effectiveness of governance. The lack of clarity regarding transitional arrangements following Constitutional Court Decision No. 135/PUU-XXII/2024 highlights the urgency of formulating legal policies capable of addressing regulatory gaps while ensuring alignment with constitutional values.

Based on the above discussion, the research titled “Constitutional Democracy and the Regulatory Vacuum During the Transition Period: A Study of Constitutional Court Decision No. 135/PUU-XXII/2024” holds both academic and practical significance. This study is not only aimed at identifying various legal issues arising from the absence of regulations regarding the transitional period for filling DPRD member positions but also seeks to examine the extent to which such issues align with the principles of constitutional democracy. Furthermore, this research seeks to formulate a regulatory model that can ensure legal certainty, strengthen democratic legitimacy, and maintain the continuity of local government administration following the implementation of Constitutional Court Decision No. 135/PUU-XXII/20

RESULTS AND DISCUSSION

Constitutional Issues Arising from the Lack of Regulations on the Transition Period for Regional Legislative Council (DPRD) Positions Following Constitutional Court Decision No. 135/PUU-XXII/2024

1. Constitutional Court Decision No. 135/PUU-XXII/2024 and the Reconstruction of Indonesia’s Electoral System

Constitutional Court Decision No. 135/PUU-XXII/2024 holds a very important position in the dynamics of the development of Indonesian constitutional law following the Reform era. Through this decision, the Court revised the structure of simultaneous general elections, which had previously been implemented through the “five-ballot-box” system as applied in the 2019 and 2024 elections. The Constitutional Court ruled that National Elections—which include the election of the President and Vice President, members of the House of Representatives (DPR), and members of the Regional Representatives Council (DPD)—must be held separately from Regional Elections, which encompass the election of regional heads as well as members of Provincial Regional Representative Councils (DPRD) and Regency/Municipal Regional Representative Councils (DPRD). This separation must be maintained for a period of at least two years and no more than two years and six months. In essence, this ruling constitutes a form of constitutional correction to the practice of simultaneous elections, which has long been deemed to give rise to various problems—both technical and substantive—in the exercise of democracy in Indonesia. From a historical perspective, this change in the structure of the electoral system is part of the ongoing development of the Constitutional Court’s jurisprudence. Previously, Decision No. 14/PUU-XI/2013 affirmed the need for simultaneous elections as an instrument to strengthen the presidential system of government. Subsequent developments are evident in Decision No. 55/PUU-XVII/2019, which allows for various designs of simultaneous elections that remain consistent with the Constitution. Building on this framework, through Decision No. 135/PUU-XXII/2024, the Constitutional Court ultimately established a model separating national and local elections as an option for restructuring Indonesia’s electoral democratic system.

The Court’s reasoning in issuing this decision was based on various empirical facts indicating that the conduct of the 2019 and 2024 Simultaneous Elections imposed a very heavy administrative burden on election organizers. In the 2019 elections, the elections for President and Vice President, members of the House of Representatives (DPR), members of the Regional Representatives Council (DPD), members of Provincial Legislative Councils (DPRD), and members of Regency/Municipal Legislative Councils (DPRD) were held simultaneously, involving more than 192 million voters. Such a high level of complexity resulted in an increased workload for Polling Station Organizing Group (KPPS) officials. Data released by the General Elections Commission (KPU) and the Ministry of Health indicate that more than 800 KPPS officers died, while thousands of others suffered health issues due to exhaustion during the voting and vote-counting phases. These conditions subsequently became one of the

main reasons behind criticism of the implementation of the “five-ballot box” simultaneous election model.

The Court not only highlighted the technical aspects of election administration but also drew attention to the decline in the quality of citizens’ political engagement, triggered by the large number of political choices that had to be made simultaneously. In the study of electoral democracy, this situation is known as “voter fatigue.” This situation prevents voters from having sufficient time to comprehensively assess the candidates’ platforms, visions, and capabilities, as their attention is divided among the various types of elections held simultaneously. Consequently, elections risk failing to fulfill their substantive function as an instrument for channelling and realizing popular sovereignty. The relevance of this issue is all the more evident in the Indonesian context, which adopts a multiparty system with a high degree of fragmentation, resulting in a very large number of participants in legislative elections. In the 2024 elections, for example, the public is faced with 18 national political parties participating in the election as well as thousands of legislative candidates to choose from. This level of complexity not only adds to the burden on voters but also increases the cost of conducting elections while raising the likelihood of administrative errors in the vote-counting process. Furthermore, Decision No. 135/PUU-XXII/2024 is also intended to strengthen the practice of the presidential system in Indonesia. During the five-ballot simultaneous elections, various local issues are often overshadowed by the dominance of the presidential election dynamics. The “coattails effect” results in voters’ preferences for legislative candidates and members of the Regional People’s Representative Council (DPRD) being determined more by their choice of presidential candidate than by an assessment of the quality of the legislative candidates in question. Therefore, the separation of national and local elections is expected to enhance political accountability at the regional level, as voters can focus their attention more effectively on evaluating the performance of political parties and local candidates. However, this decision also presents fairly complex constitutional consequences. One of the most significant impacts relates to the synchronization of the terms of office for Regional Legislative Council (DPRD) members elected in the 2024 General Election with the conduct of Regional Elections scheduled to take place after the 2029 National Election. Pursuant to Article 22E of the 1945 Constitution of the Republic of Indonesia and Law No. 7 of 2017 on Elections, the term of office for DPRD members is set at five years. Consequently, DPRD members elected in the 2024 General Election will, in principle, conclude their terms in 2029. However, if the Regional Elections are held two years or more after the 2029 National General Election, a specific period will arise—as noted at —during which there is no clear legal basis regarding which body is authorized to carry out the function of representing the people in the region.

This issue becomes even more complex given that the Regional People’s Representative Council (DPRD) is the institution representing the people at the regional level that carries out legislative, budgeting, and oversight functions regarding the administration of regional government. A vacancy in the DPRD membership not only hinders the political representation of the public but can also disrupt the process of formulating regional regulations, deliberating the Regional Revenue and Expenditure Budget (APBD), and exercising oversight over the regional head. Within the framework of a constitutional democracy, the existence of a representative body is a fundamental element that cannot be allowed to remain vacant without a clear legal basis. Therefore, Constitutional Court Decision No. 135/PUU-XXII/2024 essentially not only brings changes to the design of Indonesia’s electoral system but also creates an urgent need to reconstruct the legal framework governing the transitional period for DPRD members’ terms of office. If adequate transitional regulations are not immediately established, the implementation of this decision has the potential to create legal uncertainty and give rise to new constitutional conflicts that contradict the principle of the rule of law as affirmed in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

2. Legal Vacuum (Rechtsvacuum) in the Regulation of the Transitional Period for Regional Legislative Council (DPRD) Members

One of the constitutional issues that has garnered significant attention following the issuance of Constitutional Court Decision No. 135/PUU-XXII/2024 is the legal vacuum (*rechtsvacuum*) regarding the transition period for members of the Regional People's Representative Council (DPRD). Although the decision has established a new framework for the conduct of elections, the Court did not provide comprehensive regulations regarding the institutional transition mechanisms necessary to accommodate these changes. This situation creates a normative gap in the legal system that has the potential to generate uncertainty regarding the continuity of political representation at the regional level. In theoretical analysis, a "*rechtsvacuum*" refers to a situation where the legal framework fails to provide adequate norms to address concrete issues arising in the practice of state administration. From the perspective of contemporary constitutional law, the existence of a legal vacuum can have serious implications for the maintenance of legal certainty, the effectiveness of government administration, and democratic legitimacy. Therefore, any fundamental change in institutional design must, in principle, be accompanied by clearly and adequately formulated transitional provisions.

In relation to Constitutional Court Decision No. 135/PUU-XXII/2024, the core issue arises from the mismatch between the end of the term of the Regional People's Representative Council (DPRD) members elected in the 2024 General Election and the timing of the next Regional Election after 2029. If the terms of office for Regional Legislative Council (DPRD) members remain set to end in 2029, while the next Regional Elections are not held until 2031 or 2032, a gap of approximately two to two and a half years will arise, which has the potential to cause an institutional vacuum. Such a situation has not yet been explicitly addressed, neither in the 1945 Constitution of the Republic of Indonesia, the Election Law, nor the Regional Government Law.

Available data indicates that this change in the election design will affect more than 20,000 members of Provincial Regional Representative Councils (DPRD) and Regency/Municipal Regional Representative Councils (DPRD). According to the General Elections Commission's (KPU) data on the 2024 election results, available at [https://www.kpu.go.id](#), there are 580 members of the House of Representatives (DPR RI), 152 members of the Regional Representatives Council (DPD), 2,372 members of Provincial Regional Representative Councils (DPRD), and approximately 17,510 members of Regency/Municipal Regional Representative Councils (DPRD) who are elected simultaneously in a single election cycle. With the change in the schedule for holding local elections, the continuity of the terms of office for thousands of these DPRD members is directly affected. This legal vacuum gives rise to at least three fundamental constitutional issues. First, can the extension of DPRD terms through legislation be justified as an adjustment to the Constitutional Court's ruling? Second, if the extension option is not pursued, what mechanisms can be used to fill the vacancies in the DPRD during the transition period? Third, to what extent does the chosen transitional policy remain consistent with the principle of periodicity of power, which is one of the main foundations of constitutional democracy? The option of extending the DPRD's term of office is often viewed as the most practical solution. However, this step also has the potential to spark debate from a constitutional perspective, given that DPRD members derive their political legitimacy through elections for a five-year term. Extending terms without going through an electoral process could be interpreted as contrary to the principle of popular sovereignty and the principle of holding periodic elections. In various studies on constitutional democracy, extending terms without a renewal of the mandate from voters is often viewed as a form of erosion of democratic accountability.

If the option to extend the DPRD's term is not implemented, the state will instead face a more complex problem: a vacancy in the people's representative body at the regional level. This situation differs from that of regional heads, whose vacancies can still be bridged through the mechanism of appointing an acting official (Pj). To date, the Indonesian legal system has not recognized or regulated a mechanism for filling such positions through the appointment of "acting DPRD members." Consequently, the performance of the DPRD's primary functions—including legislative, budgetary, and oversight functions—risks being disrupted or unable to proceed effectively during the transitional period. Various recent studies indicate that resolving this issue requires the establishment of transitional provisions through amendments to the Election Law, the Regional Head Election Law, and the Regional Government Law. In academic debates, several alternative solutions have been proposed, including: (1) extending the term of the Regional People's Representative Council (DPRD) for a limited period through transitional provisions in the law; (2) holding transitional local elections; or (3) adjusting the terms of DPRD members elected in the 2029 elections to align with the cycle of the next regional elections. Each of these alternatives carries different constitutional implications and therefore requires a solid argumentative foundation based on the principles of a democratic rule of law.¹⁶ Therefore, the main issue arising after Constitutional Court Decision No. 135/PUU-XXII/2024 relates not only to changes in the election schedule but also to the lack of a transitional legal framework capable of ensuring the continuity of public representation at the regional level. This regulatory vacuum demonstrates that reforming the electoral system must be accompanied by a comprehensive overhaul of regulations to prevent the emergence of new constitutional issues that could potentially undermine the quality of democracy in Indonesia.

3. Constitutional Analysis of Alternatives for Filling Transitional Positions in Regional People's Representative Councils

The most fundamental issue following Constitutional Court Decision No. 135/PUU-XXII/2024 does not actually lie in the policy of separating national and regional elections, but rather in how the state regulates and manages the consequences of the transitional period arising from this change in the electoral framework. Although the Constitutional Court's decision provides a solution to the complexities of organizing the "five-box" simultaneous elections, at the same time, it raises a new problem: the mismatch between the terms of office of Regional People's Representative Councils (DPRD) and the schedule for the next round of regional elections. Various recent studies confirm that without a clearly defined transition plan, the implementation of this ruling has the potential to cause a crisis of democratic legitimacy as well as legal uncertainty in local government administration.

In constitutional law studies, the regulation of the transition period is understood as an integral part of the process of constitutional transition. Bruce Ackerman argues that any fundamental institutional change must be accompanied by transitional mechanisms capable of ensuring the continuity of government without undermining democratic principles or popular sovereignty. Thus, regulations regarding the transitional period for the Regional People's Representative Council (DPRD) must be designed within a framework that balances legal certainty, the effectiveness of local government administration, and democratic legitimacy.

One of the options most frequently raised in various academic studies is to extend the terms of office of DPRD members elected in the 2024 general election until the first regional election following the Constitutional Court's ruling. This option is viewed as a relatively practical solution because it does not require the holding of a supplementary election and ensures the continuity of the DPRD's functions in the region—in the areas of legislation, budgeting, and oversight. A number of studies identify the extension of terms of office as a reasonably rational alternative to prevent an institutional vacuum in the Regional People's Representative Council (DPRD) during a period of approximately two to two and a half years

resulting from the scheduling gap between the National Elections and the Regional Elections. From the perspective of regional government administration, this alternative offers several advantages. First, the continuity of local government administration can still be maintained because the Regional People's Representative Council (DPRD) retains the authority to carry out regional legislative functions as well as to deliberate on and enact the Regional Budget (APBD). Second, the government is not burdened with the need for a large additional budget to conduct transitional elections. Third, adjustments to the new electoral system can take place gradually, thereby minimizing the potential for significant political disruption.

Nevertheless, when viewed from the perspective of constitutional democracy, the policy of extending the terms of DPRD members raises a number of fundamental issues. Article 22E, paragraph (1) of the 1945 Constitution of the Republic of Indonesia explicitly states that general elections are held periodically every five years. The periodicity of elections embodies the principle of popular sovereignty because it provides citizens with the opportunity to evaluate and re-elect their political representatives through a regular electoral mechanism. Therefore, when the terms of office of Regional People's Representative Council (DPRD) members are extended beyond the five-year limit without being preceded by general elections, this situation has the potential to deviate from the principle of periodic elections, which is recognized as one of the fundamental standards of modern democracy. In constitutional law analysis, the extension of public officials' terms of office is fundamentally justifiable only if it meets three main prerequisites: the existence of extraordinary circumstances, a clear legal basis, and a proportionate time limit. The situation following the Constitutional Court's ruling in , Indonesia, can indeed be understood as a transitional phase requiring institutional adjustments. Nevertheless, the legislature must still be able to present adequate constitutional arguments so that such a policy is not viewed as a deviation from the principles of electoral democracy.¹⁸ Furthermore, there is a potential for a decline in the level of political accountability of the Regional People's Representative Council (DPRD). DPRD members who have received a five-year mandate from voters will exercise their authority beyond the limits of the legitimacy originally granted by the people. From the perspective of political representation theory, the legitimacy of a people's representative stems from an electoral mandate that is time-bound. Thus, when a term of office is extended without a re-election process, the level of political legitimacy attached to that representative tends to weaken.

One option worth considering is the establishment of a caretaker mechanism for the DPRD during the transition period. Conceptually, this model is intended to avoid the need to extend the terms of DPRD members while ensuring there is no vacuum in the regional representative body. However, compared to the alternative of extending terms, this approach faces more complex constitutional issues. Unlike regional heads, who perform governmental functions and can therefore be temporarily replaced by acting officials based on the principle of continuity in the administration of state affairs, the DPRD is a representative institution that derives its legitimacy directly through the general election process. The DPRD's status as a representative body makes the concept of "acting DPRD members" problematic. Indonesia's constitutional system does not recognize any mechanism that would allow the government to appoint specific individuals to carry out the function of representing the people. If DPRD members were appointed by either the central government or local governments, the principle of democratic representation would be undermined because those individuals would not have received a direct mandate from voters.

A study conducted by Hendrawan and Muhtada indicates that filling DPRD seats through non-electoral mechanisms has the potential to conflict with the principles of representative democracy and the sovereignty of the people, as guaranteed in Article 1, paragraph (2) of the 1945 Constitution of the Republic of Indonesia. On this basis, the appointment of acting DPRD members is considered to pose a very high level of constitutional risk. Furthermore, from an

implementation perspective, this mechanism also faces significant challenges, given that the Regional People's Representative Council (DPRD) operates based on the principle of collective-collegiality. This situation differs from the position of regional head, which can be filled by a single appointee. The Regional People's Representative Council (DPRD) consists of a large number of members from various electoral districts and political parties. Therefore, replacing all members through an appointment mechanism would eliminate the diversity of representation that is, in fact, a fundamental characteristic of the legislative body.

The next alternative is to hold transitional or interim elections. Under this scheme, DPRD members are elected through special elections with terms shorter than the standard term. Theoretically, this model is viewed as the option most aligned with the principle of popular sovereignty, as every legislative position is still obtained through the general election process. Thus, there is no extension of terms or filling of positions through appointment without electoral legitimacy. Consequently, democratic legitimacy can still be maintained. A number of countries undertaking electoral system reforms have implemented a similar approach. During the restructuring of local government systems in several Eastern European countries following their democratic transitions, transitional elections were used as a tool to align with the new electoral cycle without disregarding the principle of periodic elections. Nevertheless, implementing this model in Indonesia faces challenges related to cost and effectiveness. Conducting elections requires substantial budgetary support. For the 2024 elections, the government allocated funds amounting to tens of trillions of rupiah for the conduct of the elections and all supporting stages. If transitional elections were held, the fiscal burden on both the central and local governments would increase significantly. Beyond the financial aspect, holding additional elections also has the potential to cause electoral fatigue among the public. One of the Constitutional Court's primary considerations in separating national and local elections was to reduce the burden on voters while improving the quality of democracy. Therefore, if additional elections were held during the transition period, the goal of simplifying the electoral system might not be fully achieved.

Based on the above analysis, the most constitutionally and practically feasible solution is a limited extension of the Regional People's Representative Council's (DPRD) term of office through a statutory provision that is explicitly transitional in nature and applies only once (a one-time constitutional adjustment). While this option is not entirely ideal from the perspective of electoral democracy, it is relatively more proportionate compared to other alternatives.

To ensure constitutionality, several conditions must be met:

- a. The term extension must be enacted through legislation, not through government administrative policies.
- b. It must be temporary and apply only once, specifically to align with the implementation of Constitutional Court Decision No. 135/PUU-XXII/2024.
- c. It is limited proportionally, that is, only for as long as necessary until the first regional elections are held.
- d. Accompanied by strict constitutional oversight by the Constitutional Court and civil society.
- e. Regulated simultaneously through revisions to the Election Law, the Regional Election Law, and the Regional Government Law to avoid creating a conflict of legal norms.

Thus, the issue of the Regional People's Representative Council's (DPRD) transitional period following Constitutional Court Decision No. 135/PUU-XXII/2024 is, in fact, a test of the state's ability to manage constitutional change democratically. The success of electoral system reform is determined not only by the design of the new simultaneous election system but also by the ability of lawmakers to formulate transition mechanisms that ensure legal certainty, the effectiveness of local government, and continued respect for the principle of popular sovereignty as the cornerstone of a constitutional democracy.

4. Violations of the Principles of Popular Sovereignty, Legal Certainty, and Constitutional Democracy Resulting from the Regulatory Vacuum Regarding the Regional People's Representative Council (DPRD) Transition Period

One of the fundamental principles of Indonesia's constitutional system is popular sovereignty, as affirmed in Article 1, paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that "sovereignty resides with the people and is exercised in accordance with the Constitution." This provision establishes the people as the primary source of the state's legitimacy. In a modern democracy, the exercise of popular sovereignty is realized through the mechanism of general elections, which are conducted directly, universally, freely, by secret ballot, honestly, and fairly. In the context of the Regional People's Representative Council (DPRD), the legitimacy of council members derives entirely from the mandate granted by the people through elections. Therefore, the existence of the DPRD cannot be separated from the principle of political representation. The DPRD serves as a constitutional instrument that enables the aspirations of the local community to be translated into public policy through its legislative, budgeting, and oversight functions.

Constitutional Court Decision No. 135/PUU-XXII/2024 raises new issues because it alters the timing of elections without being accompanied by adequate normative provisions regarding the continuity of DPRD members' terms of office. This situation gives rise to two alternatives, each of which carries constitutional implications. First, the terms of the Regional People's Representative Council (DPRD) are extended even though no elections are held. Second, the terms of the DPRD end while no replacement body has yet been established that has obtained legitimacy through an electoral process. In the first alternative, the issue that arises relates to democratic legitimacy. Members of the DPRD, who originally received a mandate from the people for a five-year term, ultimately exercise authority beyond the period granted by the voters. Within the framework of representative democracy, a political mandate is fundamentally temporary and limited to a specific timeframe; it is not an authority that applies indefinitely. Therefore, extending the term of office without renewing the mandate through elections has the potential to weaken the political accountability of elected representatives to the constituents they represent. Conversely, if the term of the Regional People's Representative Council (DPRD) ends without a legitimate replacement institution in place, the public's right to political representation as guaranteed by the constitution is neglected. This situation aligns with the concept of the "representation gap" proposed by Hanna Pitkin, which refers to a condition where the public no longer has an institution that can legally represent its interests in the public policy-making process.

In the administration of local government in Indonesia, the Regional People's Representative Council (DPRD) plays a crucial role. Data from the Ministry of Home Affairs for 2024 indicates that the execution of governmental functions across 34 provinces and 514 regencies/cities relies heavily on the role of the DPRD, particularly in the deliberation and approval of the Regional Budget (APBD), the formulation of local regulations, and the oversight of regional heads. If these functions were to cease during the transition period, the quality of democracy at the local level could potentially suffer a significant decline.³ From the perspective of constitutional democracy, the state has an obligation to ensure the continuity of public representation and must not allow a representative vacuum to occur. Richard Albert emphasizes that any constitutional amendment must be designed to ensure the continuity of political representation mechanisms in order to maintain democratic legitimacy (democratic continuity). Thus, the absence of provisions regarding the DPRD's transitional period can be understood as a disregard for the principle of popular sovereignty, which is constitutionally guaranteed.

In addition to raising issues related to democracy, the absence of provisions regarding the transitional period for the Regional People's Representative Council (DPRD) also has the

potential to conflict with the principle of the rule of law, as affirmed in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia. According to A.V. Dicey, legal certainty is one of the fundamental elements of the concept of the rule of law. Every action taken by state officials must be based on clear legal provisions so that the public can clearly understand their rights and obligations. In the absence of legal norms governing the status of the Regional People's Representative Council (DPRD) following the expiration of its term resulting from the 2024 General Election, uncertainty arises regarding the continuity of local government administration. In Hans Kelsen's view, law must be structured as a complete, consistent, and coherent system of norms, so as not to leave gaps that could hinder the performance of state functions. If a normative vacuum occurs, the law loses its ability to serve as a guide that provides direction for the actions of both state officials and the public. This potential issue is highly relevant in the context of implementing Constitutional Court Decision No. 135/PUU-XXII/2024. To date, there have been no amendments to the Election Law or the Regional Government Law that explicitly regulate:

- a. The status of Regional Legislative Council (DPRD) members after the end of their five-year term.
- b. The procedures for filling DPRD member positions during the transition period.
- c. The scope of the DPRD's authority if its term is extended.
- d. The mechanism for the DPRD's political accountability during the transitional period.

The consequence of this situation is uncertainty regarding the legal basis for various actions taken by the DPRD during the transitional period. For example, if the DPRD's term of office is extended through legislative mechanisms, the question arises as to whether all functions and authorities in the areas of legislation and budgeting can still be fully exercised as intended. Conversely, if there is an institutional vacuum in the DPRD, questions will arise regarding which party has the authority to approve the Regional Budget (APBD) and to exercise oversight over the administration of local government.

Jimly Asshiddiqie stated that the rule of law requires the guarantee of institutional continuity so that the wheels of government continue to turn without experiencing an institutional vacuum. On this basis, the legislature bears the constitutional responsibility to promptly establish regulations that can fill the legal vacuum resulting from changes to the electoral system. Furthermore, this situation of legal uncertainty has the potential to give rise to new constitutional disputes. The possibility of challenging the law before the Constitutional Court remains open if the established transitional policies are deemed to contradict the principles of democracy or popular sovereignty. Therefore, the issue of the regulatory vacuum regarding the transitional period for the Regional People's Representative Council (DPRD) can no longer be viewed merely as an administrative matter; rather, it has evolved into a constitutional issue of the highest urgency.

Essentially, constitutional democracy is a fusion of the principles of democracy and constitutionalism. Democracy places the people as the source of the legitimacy of power, while constitutionalism requires that the exercise of power be limited and conducted in accordance with the law. According to Jan-Erik Lane, the sustainability of constitutional democracy depends on the fulfillment of three fundamental elements : the holding of periodic elections, the maintenance of continuous political representation, and the existence of legal certainty in the administration of government.

These three elements are at risk of being disrupted if regulations regarding the transitional period for the Regional People's Representative Council (DPRD) are not adequately formulated. First, the principle of periodically held elections may be undermined if the state chooses to extend the term of the DPRD for an excessively long period, as this would reduce the intensity of public oversight over the representatives they have elected. Second, the continuity of political representation may be hindered if a vacancy in the Regional People's

Representative Council (DPRD) occurs during the transitional period, thereby depriving the public of a constitutional means to oversee the local government. Third, legal certainty may also be compromised due to the absence of clear regulations governing the relationship between changes in the election schedule and the continuity of DPRD members' terms of office.

According to data from the Indonesian Democracy Index (IDI) published by the Central Statistics Agency (BPS), the effectiveness of local representative bodies is a key indicator in assessing the quality of democracy. In recent years, the practice of democracy at the local level has continued to face a number of challenges, including low public participation in political processes, suboptimal oversight of local government administration, and the growing prevalence of transactional political practices.⁹ In this context, an institutional vacuum within the Regional People's Representative Council (DPRD) has the potential to exacerbate existing democratic problems in the region.

A number of recent studies conducted by constitutional law scholars following the issuance of Constitutional Court Decision No. 135/PUU-XXII/2024 indicate that the existence of transitional provisions is a fundamental prerequisite for the implementation of the new electoral system design. The absence of adequate and clear transitional provisions could cause the Constitutional Court's objective of strengthening the quality of democracy to actually result in the opposite effect namely, the weakening of the people's political representation and increased legal uncertainty.

Within the framework of the theory of constitutional engineering introduced by Giovanni Sartori, every institutional change must be comprehensively designed to prevent the emergence of dysfunction within the political system. Therefore, electoral system reform must not be limited to regulating the timing of elections but must also consider its consequences for all institutions related to the system. From this perspective, Constitutional Court Decision No. 135/PUU-XXII/2024 can be understood as a form of constitutional redesign that requires follow-up through comprehensive legislative policies. In this regard, lawmakers need to immediately draft transitional provisions covering:

- a. Adjustments to the terms of office for members of the Regional People's Representative Council (DPRD).
- b. Regulations governing the relationship between the schedules of national and regional elections.
- c. Establishment of a maximum time limit for term extensions.
- d. Regulations on oversight mechanisms for the Regional People's Representative Council (DPRD) during the transition period.
- e. Adjustments to the overall cycle of local government administration.

The existence of these transitional provisions is crucial to ensuring that the implementation of the Constitutional Court's Decision does not lead to a crisis of legitimacy, a crisis of representation, or legal uncertainty. Thus, the successful implementation of Constitutional Court Decision No. 135/PUU-XXII/2024 does not depend solely on changes to the design of the election process, but is also largely determined by the state's ability to design a transition mechanism that aligns with the principles of constitutionalism and democracy..

Models for Regulating the Transition Period for Regional Legislative Council (DPRD) Terms from the Perspective of Constitutional Democracy)

1. Constitutional Court Decision No. 135/PUU-XXII/2024 and the Reconstruction of Indonesia's Electoral System

Constitutional democracy is understood as a concept that combines two key elements in the administration of a modern state, namely the principle of popular sovereignty (democracy) and the principle of constitutional supremacy (constitutionalism). In such a system, the legitimacy of governmental power derives from the will of the people, but the exercise of that

power must be subject to the limitations established by the constitution to prevent arbitrary actions. Therefore, democracy is not merely understood as the procedure for conducting general elections, but also as a system of governance that guarantees the protection of citizens' constitutional rights through the existence of legal rules that provide certainty and predictable application.

Jimly Asshiddiqie argues that constitutional democracy requires a balance between the principle of popular representation and the principle of checks on power, which is implemented through the law. In this context, any changes to the state's institutional design must be carried out in accordance with clear and well-defined constitutional procedures to avoid issues of legitimacy or legal uncertainty. The issue regarding the transitional period for Regional People's Representative Council (DPRD) members following the issuance of Constitutional Court Decision No. 135/PUU-XXII/2024 has become a critical matter to analyze from the perspective of constitutional democracy. This decision essentially introduces a new framework for conducting elections by separating national and local elections, which were previously held simultaneously. The implication of this change is the potential for a timing mismatch between the end of the terms of DPRD members elected in the 2024 general election and the holding of the next local election. In the practice of state administration, the DPRD occupies a crucial position in the administration of local government. Data from the Ministry of Home Affairs indicates that as of 2024, there were more than 19,000 DPRD members serving at the provincial and regency/city levels. The DPRD serves as the primary vehicle for the political representation of the people, the formulation of local regulations, budgetary functions, and oversight of local government administration by regional heads. Thus, a vacancy in the DPRD not only has administrative consequences but also has the potential to weaken the checks and balances mechanism in local governance. From the perspective of constitutional democracy, regulations concerning the transitional period for DPRD positions must, at a minimum, take into account and ensure the protection of four fundamental principles that form the main foundation of democratic and constitutionally based governance.

Legal Certainty is one of the fundamental principles of the rule of law, the existence of which is affirmed in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Gustav Radbruch held the view that the law must be capable of providing predictability, so that every citizen can understand and anticipate the legal consequences arising from an action or a policy established by the state.⁴ The absence of provisions governing the transition period for Regional People's Representative Council (DPRD) members has the potential to create uncertainty regarding the legal status of DPRD members after the expiration of their constitutionally mandated terms of office. This situation could give rise to a "rechtvacuum" or legal vacuum, which ultimately risks disrupting the administration of local government.

Democratic Legitimacy. The theory of legitimacy explains that political authority gains legitimacy when it is established through mechanisms accepted by society and in accordance with applicable legal provisions. According to Max Weber, legitimacy is a fundamental element underpinning the continuity of power in a modern state.⁵ In the operation of the Regional People's Representative Council (DPRD), the source of legitimacy stems from general elections as a manifestation of the principle of popular sovereignty. Thus, any alternative method for filling positions during the transitional period must maintain a close connection between public officials and the popular mandate obtained through the electoral process.

Continuity of Local Government. The Regional People's Representative Council (DPRD) holds a position as part of the governing body of local government, as affirmed in Article 57 of Law No. 23 of 2014 on Local Government. Vacancies in the DPRD membership can create obstacles to various functions of local government, including the deliberation of the

Regional Budget (APBD), the formulation of regional regulations, and the exercise of oversight functions over the regional head. Research findings by Nugroho and Hidayat (2024) indicate that the success of local government governance is largely determined by the continuity of the DPRD's representative functions, particularly in the areas of budget oversight and the delivery of public services.

The protection of citizens' constitutional rights is a fundamental element of a democracy based on the constitution. The right to vote and the opportunity to be elected as a representative of the people are constitutional rights directly guaranteed under Article 28D, paragraph (3) of the 1945 Constitution of the Republic of Indonesia. On this basis, the design of transitional mechanisms must not result in the erosion of the public's right to determine their political representation through general elections conducted freely, fairly, and democratically. Robert Dahl emphasizes that the quality of democracy is greatly influenced by the openness of opportunities for citizen participation as well as the existence of political competition that is both competitive and inclusive.⁷ Thus, filling Regional People's Representative Council (DPRD) seats through procedures not based on electoral mechanisms has the potential to lower the quality of democracy and is inconsistent with the principle of political representation that forms the foundation of democratic governance.

2. Constitutional Engineering as the Basis for Reconstructing Transitional Norms

In the development of contemporary constitutional law, constitutional engineering is understood as the process of designing political institutions through constitutional instruments and legislative regulations with the aim of achieving governmental stability without neglecting democratic values. Giovanni Sartori argues that a country's institutional design must be structured in such a way as to anticipate various potential political conflicts arising as a consequence of changes in the constitutional system.⁸ The issue regarding the transitional period for Regional People's Representative Council (DPRD) members highlights the urgency of applying a constitutional engineering approach within the context of Indonesia's legal system. Although Constitutional Court Decision No. 135/PUU-XXII/2024 has altered the configuration of the relationship between national and local elections, this change has not been accompanied by the establishment of norms that clearly regulate the transitional implications it entails.

From a constitutional engineering perspective, reforms to political institutions must simultaneously consider three key dimensions: political system stability, democratic legitimacy, and the effectiveness of governance. The inability to accommodate all three dimensions simultaneously risks causing changes to the electoral design to instead lead to political instability and legal uncertainty.⁹ Within this framework, lawmakers need to amend Law No. 7 of 2017 on Elections and Law No. 23 of 2014 on Regional Government by establishing transitional provisions that explicitly regulate the terms of office for members of the Regional People's Representative Council (DPRD) following the implementation of a model in which national and local elections are held separately. The findings of Rahmatunnisa's (2025) study, published in the *Journal of the Constitution*, show that the absence of transitional provisions in the electoral system reform process often triggers constitutional disputes because it creates legal uncertainty regarding the status of public officials who are still in office.

3. Constitutional Alternative Models for Regulating the Transitional Term of Office for Regional Legislative Council Members System

Constitutional Constitutional Term Extension. The first alternative involves implementing temporary transitional provisions (temporary constitutional adjustment) to extend the terms of DPRD members. This regulatory approach has been adopted in several

countries undergoing electoral system reforms, including the Philippines and Thailand. The primary objective of this term extension is to prevent an institutional vacuum resulting from changes to the election schedule. The advantage of this approach lies in its ability to provide legal certainty while ensuring the Regional People's Representative Council (DPRD) continues to function seamlessly. However, the implementation of this model is not without potential criticism, as it extends political mandates without obtaining new legitimacy through the general election process.

Accelerated Local Elections. The second alternative involves holding local elections earlier to fill Regional Legislative Council seats whose terms have expired. This model has a strong foundation of democratic legitimacy because the process of filling these positions is still carried out through the electoral mechanism. However, a consequence of this approach is the high budgetary requirements for conducting additional elections. According to data from the General Elections Commission, the budget allocation for the 2024 general election amounts to more than Rp71 trillion. Therefore, holding accelerated local elections has the potential to significantly increase the fiscal burden on both the central and local governments.¹¹

Hybrid Transitional Model. The third alternative is a hybrid transitional model that combines term extensions within certain limits with the holding of local elections at a time clearly stipulated by law. This approach is considered more proportional because it ensures the continuity of local government without neglecting the principle of democratic legitimacy. Furthermore, this model allows lawmakers sufficient time to prepare all stages of the local elections in a more systematic manner. From the perspective of legitimacy theory and constitutional engineering, the hybrid model is the most rational alternative because it accommodates the need for governmental stability while upholding the principle of popular sovereignty.

4. The Ideal Framework for Regulating the Transition Period for Regional Legislative Council (DPRD) Positions

From the perspectives of constitutional democracy theory, legitimacy theory, political representation theory, the rechtvacuum theory, and constitutional engineering, the ideal framework for regulating the transitional period for DPRD members can be formulated through several key aspects. First, revisions to the Election Law and the Regional Government Law must include transitional provisions that are clearly and explicitly formulated by lawmakers. These provisions must provide legal certainty regarding the legal status of Regional Legislative Council members during the transitional period to prevent a legal vacuum. Second, the policy of extending the terms of Regional Legislative Council members may only be applied on a limited and temporary basis, and implemented only once—solely to align the scheduling of national elections with local elections. Third, the timing of local elections must be clearly specified in the law to prevent the possibility of repeated delays. Fourth, the mechanism of filling DPRD vacancies through appointment is not justifiable because it contradicts the principle of political representation and disregards the constitutional rights of citizens. Fifth, during the transition period, the DPRD's functions of representation, legislation, budgeting, and oversight must be guaranteed so that the wheels of local government can continue to turn effectively. Based on these considerations, a hybrid model supported by clear transitional norms is the option most consistent with the principles of a democratic rule of law. In addition to addressing the legal vacuum that arose following Constitutional Court Decision No. 135/PUU-XXII/2024, this model also maintains harmony between legal certainty, democratic legitimacy, and the continuity of local government administration.

The Most Relevant Model for Regulating the Transitional Period for Regional Legislative Council (DPRD) Positions in Indonesia's Constitutional System

The issue of filling the transitional period for Regional Legislative Council (DPRD) members following Constitutional Court Decision No. 135/PUU-XXII/2024 is fundamentally not limited to the technical aspects of conducting elections. This issue has a constitutional dimension because it is directly related to the legitimacy of regional representative bodies, the continuity of regional governance, and the protection of citizens' constitutional rights. Therefore, determining the transition model cannot be based solely on administrative considerations but must be analyzed within the framework of the principles of constitutional democracy. From the perspective of constitutional democracy theory, the regulation of the transition period is aimed at maintaining a balance between the principle of popular sovereignty and the principle of the rule of law. On the one hand, the principle of democracy requires that members of the Regional People's Representative Council (DPRD) derive their legitimacy through the mechanism of general elections; on the other hand, the principle of the rule of law demands that there be no normative or institutional vacuum in the administration of local government, necessitating transitional arrangements capable of ensuring the continuity of political representation functions at the local level.¹ Upon comprehensive examination, there are three models that can be considered to address the transitional period for DPRD membership: a constitutionally mandated extension of terms of office; the holding of accelerated local elections (); and the implementation of a hybrid transitional model. Among these three alternatives, the hybrid model is considered the most relevant for implementation within Indonesia's constitutional system because it has the capacity to accommodate the need for legal certainty while simultaneously safeguarding the continuity of the democratic process.

The first argument relates to the importance of preventing a legal vacuum (*rechtvacuum*). Through Constitutional Court Decision No. 135/PUU-XXII/2024, the design of simultaneous elections underwent a fundamental change; however, the decision does not explicitly address its implications for the terms of office of Regional People's Representative Council (DPRD) members who are still in office. This situation has the potential to create legal uncertainty regarding the legal status of DPRD members if their terms end before the local elections are held. Utrecht explains that a legal vacuum does not occur merely because a legal norm is unavailable, but also when existing norms fail to provide answers to legal issues that arise in practice.² Such a situation can give rise to legal uncertainty, which ultimately runs counter to the principle of the rule of law as affirmed in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Within this framework, the hybrid model offers a more balanced alternative compared to the option of holding accelerated local elections. Through a temporary extension of terms of office, a transitional normative instrument is available that can bridge the legal vacuum until definitive local elections are held.

The second argument relates to the aspect of democratic legitimacy. Criticism frequently leveled against term extension policies stems from the view that such a step amounts to extending a political mandate without obtaining direct approval from voters. However, this view cannot be fully justified if the term extension is carried out in accordance with the law as a consequence of changes to the electoral system resulting from a Constitutional Court ruling. In the theory of legitimacy developed by David Beetham, the source of the legitimacy of power rests not only on electoral mechanisms but also on the conformity of the exercise of power with legal rules that enjoy general acceptance in society.³ Therefore, as long as the term extension is implemented based on a law enacted through democratic procedures and applies only for a temporary period, its constitutional legitimacy can still be maintained. On the other hand, accelerated local elections do offer a strong level of democratic legitimacy because positions are filled through an electoral process. Nevertheless, this model faces various practical challenges, including the institutional readiness of election organizers, the need for substantial funding, and the complexity of carrying out all stages of the election within a limited timeframe. Experience from the 2024 elections shows that the state budget allocated for the

national elections exceeded 71 trillion rupiah. Furthermore, the process involved more than 204 million voters, approximately 820,000 polling stations (TPS), and millions of election officials.⁴ Given this vast scope, the implementation of accelerated local elections has the potential to impose significant fiscal and administrative consequences on the state.

The third argument relates to the exercise of political representation. In contemporary democratic systems, the Regional People's Representative Council (DPRD) serves as a representative institution that carries out legislative, budgetary, and oversight functions at the local government level. The existence of this institution serves as the primary means of realizing the principle of popular sovereignty at the local level, as affirmed in Article 18, paragraph (3) of the 1945 Constitution of the Republic of Indonesia. According to Hanna Pitkin, political representation is not determined solely by the existence of people's representatives—as formal institutions, but also by the continuity of the representative relationship between voters and the representatives who have obtained their mandates through the general election process.⁵ On this basis, every transition plan must be designed in such a way that the continuity of the representative functions of the people remains guaranteed throughout the transition period. Within this framework, the hybrid model offers an advantage because it is able to maintain the continuity of the representative function without undermining the role of elections as the primary source of political legitimacy.

Term extensions in this model are intended solely as temporary, transitional mechanisms, while full and definitive legitimacy continues to derive from the conduct of local elections. The fourth argument relates to the theory of constitutional engineering. Giovanni Sartori explains that any change in institutional design must be aimed at producing political stability while enhancing the effectiveness of governance.⁶ Institutional transformation not accompanied by adequate transitional arrangements has the potential to create overlapping authorities and disrupt the stability of the political system. In the Indonesian context, Constitutional Court Decision No. 135/PUU-XXII/2024 can be understood as a form of constitutional restructuring of the existing national electoral system. Therefore, further constitutional engineering is needed through the establishment of transitional norms that can facilitate a gradual transition from the old system to the new one. In this regard, the hybrid model is the most appropriate form of constitutional engineering because it allows for a gradual adjustment of the system without hindering the continuity of local government. This approach is also consistent with practices in various countries undergoing electoral system reforms, where temporary term extensions are utilized as transitional instruments to maintain institutional continuity and stability.

Based on a study grounded in the theories of constitutional democracy, legitimacy, political representation, the *rechtvacuum*, and constitutional engineering, it can be affirmed that the hybrid transition model is the most relevant option for implementation in Indonesia. This model has the capacity to maintain legal certainty, preserve democratic legitimacy, ensure the continuity of the people's representative functions, and prevent an institutional vacuum in the administration of local government during the transition period following Constitutional Court Decision No. 135/PUU-XXII/2024. From a normative perspective, the implementation of this model must be enshrined through transitional provisions in the revised Election Law, stipulating that the extension of the terms of office for Regional People's Representative Council (DPRD) members be limited and applied only once, until the swearing-in of DPRD members elected in the first local elections based on the new electoral system design. Thus, the goal of constitutional democracy—to maintain a balance between the principle of popular sovereignty and the demand for legal certainty—can be realized simultaneously.

CONCLUSION

Based on the research findings, it can be affirmed that Constitutional Court Decision No. 135/PUU-XXII/2024, which establishes the separation between National Elections and

Local Elections, gives rise to constitutional implications in the form of a mismatch between the terms of office of DPRD members elected through the 2024 Election and the timing of the Local Elections scheduled to take place after the 2029 National Election. This change in the electoral framework ultimately creates a legal vacuum (*rechtvacuum*) regarding the status and mechanisms for filling Regional Legislative Council (DPRD) seats during the transition period. To date, there are no normative regulations that explicitly provide a legal basis for the continuation of Regional Legislative Council (DPRD) members' terms of office after the expiration of their five-year terms, as stipulated in existing laws and regulations.

The lack of adequate regulations regarding this transition period has the potential to raise issues concerning the fundamental principles of constitutional democracy. From the perspective of popular sovereignty, the absence of a definitive mechanism could lead to a halt in the political representation of the people at the regional level or, conversely, open the possibility of extending the terms of DPRD members without obtaining a new electoral mandate. From the perspective of the rule of law, such a situation creates uncertainty regarding the validity of the Regional People's Representative Council's (DPRD) actions as well as the continuity of the exercise of legislative, budgeting, and oversight functions in the administration of local government. Furthermore, within the framework of constitutional democracy, the absence of norms governing the transitional period has the potential to disrupt the harmony between democratic legitimacy and legal certainty, which are essential elements in the conduct of state affairs.

This study demonstrates that the most appropriate model for regulating the transitional period within Indonesia's constitutional system is the hybrid transitional model. This model combines a policy of extending the terms of DPRD members—which is limited in scope, temporary, and implemented only once—with the holding of local elections at a time clearly stipulated by law. This approach is viewed as the most effective alternative to ensure the continuity of the people's representative functions and the administration of local government, while simultaneously maintaining democratic legitimacy and preventing a legal vacuum resulting from the implementation of Constitutional Court Decision No. 135/PUU-XXII/2024.

REFERENCE

- Asshiddiqie, Jimly. *The Constitution and Democracy in Indonesia*. Jakarta: Sinar Grafika, 2024.
- Huda, Ni'matul. *Issues in Indonesian Constitutionalism Post-Reform*. Jakarta: RajaGrafindo Persada, 2023.
- Isra, Saldi. *Indonesia's Representative Institutions and Electoral System*. Depok: Rajawali Pers, 2024.
- Rahmatunnisa, M. "Electoral Reform and Constitutional Transition in Indonesia." *Jurnal Konstitusi* Vol. 22 No. 1 (2025).
- Nugroho, A., & Hidayat, M. "Local Parliament and Democratic Governance in Indonesia." *Ius Quia Iustum Law Journal* Vol. 31 No. 2 (2024).
- Buehler, Michael. "Democratic Representation and Local Governance in Indonesia." *Asian Journal of Comparative Politics*, Vol. 9, No. 1 (2024).
- Arato, Andrew. "Constitution-Making Under Democratic Conditions." *Constellations*, Vol. 30, No. 1 (2023).
- Prasetyo, Teguh. *The Rule of Law and Constitutional Democracy*. Yogyakarta: Nusa Media, 2024.
- Sulaiman, King Faisal. "Constitutional Engineering in the Reform of Indonesia's Electoral System." *Jurnal RechtsVinding* Vol. 14 No. 1 (2025).
- Siregar, Dian Eka. "Legal Vacuum and Institutional Transition Following the Constitutional Court's Ruling." *Jurnal Legislasi Indonesia* Vol. 22 No. 2 (2025).

- Aulia, M. Z., "Constitutional Transition and Electoral Reform in Indonesia," *Journal of the Constitution*, Vol. 22, No. 1, 2025.
- Rahmatunnisa, M., "Electoral System Redesign after the Constitutional Court Decision," *Jurnal Konstitusi*, Vol. 22, No. 2, 2025.
- Sulaiman, K. F., "Constitutional Engineering in the Reform of Indonesia's Electoral System," *RechtsVinding Journal*, Vol. 14, No. 1, 2025.
- Huda, N., "Democratic Legitimacy and Local Representation after Electoral Reform," *Ius Quia Iustum Law Journal*, Vol. 31, No. 3, 2024.
- Buehler, M., "Representation and Local Democracy in Indonesia," *Asian Journal of Comparative Politics*, Vol. 9, No. 1, 2024.
- Prasetyo, T., "Legal Vacuum and Constitutional Transition in Indonesian Electoral Law," *Jurnal Legislasi Indonesia*, Vol. 22, No. 1, 2025.