

# Juridical Analysis of Constitutional Court Decision Number 135/PUU-XXII/2024: The Shift of the Constitutional Court's Role as a Positive Legislator in Indonesia's Electoral System

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## Abstract

This research aims to analyze the role of the Constitutional Court as a positive legislator in the Constitutional Court Decision Number 135/PUU-XXII/2024. The decision caused debate because the Constitutional Court not only tested the constitutionality of the norm, but also formulated a new norm regarding the separation of the implementation of National Elections and Regional Elections with a minimum interval of 2 (two) years and a maximum of 2 (two) years and 6 (six) months. This research uses a normative legal research method with a legislative approach and a case approach. The legal materials used include the 1945 Constitution of the Republic of Indonesia, Law Number 7 of 2017 concerning General Elections, Law Number 8 of 2015, and the Constitutional Court Decision Number 135/PUU-XXII/2024. The research results show that the Constitutional Court in the a quo decision has played a role as a positive legislator through a conditional unconstitutional decision (conditionally unconstitutional) which not only cancels the norm, but also provides the formulation of new norms as a guideline for the implementation of elections in Indonesia. The action was carried out to fill the legal vacuum, improve the quality of democracy, strengthen the sovereignty of the people, maintain the effectiveness of the party system, and create legal certainty in the implementation of elections. Thus, the Constitutional Court Decision Number 135/PUU-XXII/2024 shows a shift in the role of the Constitutional Court from negative legislators to positive legislators, because the Court not only acts as a law examiner of the constitution, but also plays an active role in the formation of binding legal norms.

**Keywords:** Constitutional Court; Positive Legislator; Decision Number 135/PUU-XXII/2024; Election Separation; Conditionally Unconstitutional

## I. INTRODUCTION

The Constitutional Court (Mahkamah Konstitusi) occupies a strategic position within Indonesia's constitutional system following the amendments to the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). As the guardian of the

Constitution, the Court is entrusted not only with ensuring constitutional supremacy but also with safeguarding citizens' constitutional rights, promoting legal certainty, and maintaining democratic governance grounded in the rule of law (Hidayah, 2025). This constitutional mandate places the Constitutional Court as one of the principal institutions responsible for preserving the balance between state authority and the protection of citizens' constitutional interests.

A significant constitutional development emerged through Constitutional Court Decision Number 135/PUU-XXII/2024, which restructured the Indonesian electoral system by separating the implementation of national elections from regional elections. Under this decision, regional elections are no longer conducted simultaneously with national elections but are scheduled within an interval of at least two years and no later than two years and six months after the national elections. This constitutional interpretation substantially alters Indonesia's electoral framework, requiring adjustments to institutional arrangements, electoral regulations, and the broader governance of democratic processes.

The Court's decision has generated extensive academic and constitutional debate because it extends beyond the traditional function of constitutional review. Rather than merely declaring statutory provisions constitutional or unconstitutional, the Court formulated a new constitutional norm governing the timing of elections. Consequently, the decision has been widely interpreted as reflecting the Constitutional Court's role as a *positive legislator*, whereby judicial decisions actively establish new legal norms instead of solely annulling unconstitutional legislation. Such a development raises important questions concerning the constitutional limits of judicial authority and the separation of powers within Indonesia's constitutional order (Rahmawati et al., 2022).

The evolution of the Constitutional Court from a *negative legislator* toward a *positive legislator* is constitutionally supported by Articles 24 and 24C of the 1945 Constitution, which define the Court's judicial authority in safeguarding constitutional values. In addition, Article 5 paragraph (1) of the Judicial Power Law requires judges to explore, understand, and apply legal values and the sense of justice that exist within society. These constitutional and statutory provisions have encouraged a more progressive judicial approach, enabling constitutional judges to formulate legal interpretations that address constitutional deficiencies and respond to evolving societal needs. This trend has become increasingly evident through several Constitutional Court decisions, including Decision Number 135/PUU-XXII/2024, in which the Court introduced a new legal framework to resolve constitutional issues that were insufficiently addressed by existing legislation (Fitri et al., 2022).

Judicial decisions that demonstrate characteristics of a positive legislator are generally justified by several constitutional considerations. These include the pursuit of substantive justice, the need to ensure public benefit, the urgency of resolving pressing constitutional issues, and the necessity of filling legal vacuums (*rechtsvacuum*) that could

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otherwise create uncertainty within the legal system. Through such decisions, the Constitutional Court seeks to prevent legal ambiguity while ensuring that constitutional governance continues to function effectively amid changing political and social circumstances (Fitri et al., 2022).

Despite the growing recognition of the Constitutional Court's expanded constitutional role, scholarly discussion remains divided regarding the legitimacy and constitutional implications of judicial law-making. While some scholars consider the Court's activism necessary to preserve constitutional values and democratic stability, others argue that the creation of new legal norms should remain the exclusive domain of the legislature. Therefore, Constitutional Court Decision Number 135/PUU-XXII/2024 provides an important case for examining the constitutional boundaries of judicial authority and evaluating whether the Court's intervention represents a legitimate exercise of constitutional adjudication or an expansion of judicial power beyond its intended constitutional mandate.

Accordingly, this study aims to analyze the Constitutional Court's function as a positive legislator in Constitutional Court Decision Number 135/PUU-XXII/2024. Specifically, the research examines the constitutional reasoning underlying the decision, evaluates its implications for Indonesia's electoral legal framework, and assesses the extent to which the decision reflects the Constitutional Court's evolving role in the development of constitutional law.

## II. LITERATURE REVIEW

Judicial activism is an approach to judicial practice that positions the judiciary not merely as an interpreter of the law but also as an institution that actively seeks to establish a fair and proportional balance among competing societal values. This approach aims to reconcile conflicting interests, such as individual rights and the public interest, personal freedom and the rights of others, as well as the constitutional distribution of powers among the branches of government. In practice, judicial activism is reflected in judges' proactive role in developing the law by invalidating statutes that conflict with the constitution, setting aside subordinate regulations that are inconsistent with higher legal norms, revising judicial precedents, and creating new legal norms through constitutional and statutory interpretation to address evolving societal needs (Kurnia, n.d.).

This concept is closely associated with the doctrine of *judge-made law*, which recognizes the authority of judges to develop legal principles through judicial decisions based on legal reasoning and judicial conviction in resolving disputes. As public expectations for substantive justice continue to increase, society no longer expects judges to apply the law solely in a rigid textual manner. Instead, courts are expected to deliver decisions that respond to social change and accommodate the continuous evolution of legal needs. Accordingly, the theory of judicial activism expands the role of judges beyond

statutory interpretation, allowing them to contribute to legal policy-making through the decisions they render (Rishan, 2024).

Within the context of constitutional adjudication in Indonesia, judicial activism has become an important characteristic of the Constitutional Court's exercise of judicial authority. Through this approach, the Constitutional Court performs not only the function of reviewing the constitutionality of statutes but also plays an active role in developing the law through constitutional interpretation and the formulation of new legal norms. This role has become increasingly evident in several Constitutional Court decisions that provide new constitutional meanings to statutory provisions in order to address legal vacuums and respond to developments in Indonesia's constitutional system. Consequently, judicial activism provides an important conceptual framework for understanding the transformation of the Constitutional Court's role in Indonesia's constitutional governance (Hasanah & Kharisma, 2022).

This transformation is clearly illustrated in Constitutional Court Decision Number 90/PUU-XXI/2023 concerning the minimum age requirement for presidential and vice-presidential candidates. The decision opened the possibility for former regional heads under the age of 40 to run for President or Vice President, despite the previous requirement under Law Number 7 of 2017 establishing a minimum age of 40 years. Through this ruling, the Constitutional Court did not merely review or invalidate the constitutionality of statutory provisions but also formulated a new legal norm through the mechanism of a *\*conditionally constitutional\** decision. This development demonstrates a shift in the Court's institutional function from a *negative legislator* to a *positive legislator*, as the decision substantially altered the legal requirements for presidential candidacy and directly influenced Indonesia's electoral legal system (Renaissance, 2025).

### III. METHOD

This study employs a normative juridical legal research method, which focuses on the analysis of legal norms through the examination of statutory regulations, judicial decisions, and relevant legal doctrines. Normative legal research was selected because the object of this study is the analysis of the Constitutional Court's position as a positive legislator in Constitutional Court Decision Number 135/PUU-XXII/2024 and its juridical implications for Indonesia's constitutional system.

The legal materials used in this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law Number 7 of 2017 concerning General Elections, Law Number 8 of 2015 concerning Amendments to Law Number 1 of 2015 on the Election of Governors, Regents, and Mayors, the Law on the Constitutional Court, and Constitutional Court Decision Number 135/PUU-XXII/2024. Secondary legal materials comprise legal textbooks, scientific journal articles, previous research findings, and scholarly opinions discussing judicial activism, negative legislator, positive legislator, and theories of legal norm

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formation. Tertiary legal materials, including legal dictionaries and encyclopedias, are used to support and clarify legal concepts.

This research adopts two complementary approaches: the legislative approach (statute approach) and the case approach. The legislative approach is employed to examine constitutional and statutory provisions governing the authority of the Constitutional Court, the mechanism of judicial review, and the legal framework regulating elections in Indonesia. Through this approach, the study analyzes the consistency and relationship between constitutional provisions and the legislation that became the object of judicial review. Meanwhile, the case approach is used to conduct an in-depth examination of the *ratio decidendi*, judicial reasoning, operative ruling, and constitutional arguments contained in Constitutional Court Decision Number 135/PUU-XXII/2024. The integration of these two approaches enables a comprehensive legal analysis by examining not only the applicable legal norms (law in books) but also their interpretation and development through judicial decisions (law in action).

The collected legal materials were analyzed qualitatively using a normative juridical analysis. The legal materials were first classified according to the legal issues under investigation and subsequently analyzed through systematic, conceptual, and teleological interpretation of the applicable legal norms. The findings from both approaches were then synthesized to formulate legal arguments regarding the Constitutional Court's transition from its traditional role as a negative legislator to its expanded function as a positive legislator in Constitutional Court Decision Number 135/PUU-XXII/2024.

The research procedure was conducted through several systematic stages, as presented in Table 1.

Table 1. Research Methodology Flow

| Stage | Research Activity              | Description                                                                                                                                                                                                                                               |
|-------|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1     | Identification of Legal Issues | Identifying the constitutional and legal issues arising from Constitutional Court Decision Number 135/PUU-XXII/2024 concerning the Constitutional Court's role as a <i>positive legislator</i> .                                                          |
| 2     | Collection of Legal Materials  | Collecting primary legal materials (the 1945 Constitution, statutory regulations, and Constitutional Court decisions), secondary legal materials (books, scientific journals, and legal doctrines), and tertiary legal materials supporting the analysis. |
| 3     | Legislative Approach           | Examining constitutional provisions and statutory regulations governing judicial review, electoral law, and the constitutional authority of the Constitutional Court.                                                                                     |
| 4     | Case Approach                  | Analyzing the <i>ratio decidendi</i> , constitutional reasoning,                                                                                                                                                                                          |

|   |                          |                                                                                                                                                                                                                                   |
|---|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   |                          | operative ruling, and normative implications of Constitutional Court Decision Number 135/PUU-XXII/2024.                                                                                                                           |
| 5 | Juridical Analysis       | Conducting normative legal analysis through statutory interpretation and doctrinal analysis based on the concepts of <i>negative legislator</i> , <i>positive legislator</i> , and <i>judicial activism</i> .                     |
| 6 | Synthesis and Conclusion | Integrating the findings from both approaches to formulate conclusions regarding the Constitutional Court's constitutional role as a <i>positive legislator</i> and its implications for Indonesia's constitutional legal system. |

## RESULTS/FINDINGS

This study examines the Constitutional Court's role as a positive legislator in Constitutional Court Decision Number 135/PUU-XXII/2024, focusing on how the Court formulated new legal norms beyond merely reviewing the constitutionality of statutory provisions. The findings indicate that the Court did not simply invalidate statutory norms but also established binding constitutional interpretations that directly regulate the future design of Indonesia's electoral system. These findings are presented in four interrelated themes.

### A. The Constitutional Court as a Positive Legislator

The first finding demonstrates that Constitutional Court Decision Number 135/PUU-XXII/2024 reflects a significant shift in the Court's constitutional function from a negative legislator toward a positive legislator. Traditionally, the Constitutional Court acts as a negative legislator by declaring statutory provisions unconstitutional without creating substitute norms. However, in this case, the Court went beyond annulment by introducing a new constitutional framework governing the timing of national and regional elections.

The Court declared that Article 167 paragraph (3) and Article 347 paragraph (1) of Law Number 7 of 2017 concerning General Elections, as well as Article 3 paragraph (1) of Law Number 8 of 2015 concerning Regional Elections, are conditionally unconstitutional unless interpreted in accordance with the constitutional construction formulated by the Court. Specifically, the Court held that elections for the President/Vice President, DPR, and DPD must be conducted simultaneously as national elections, whereas elections for DPRD members and regional heads must be conducted separately within a period of at least two years and no later than two years and six months after the inauguration of the President/Vice President, DPR, and DPD.

This finding confirms that the Constitutional Court exercised an active law-making function by formulating operational constitutional norms rather than merely removing unconstitutional statutory provisions.

## **B. Formulation of New Legal Norms through Constitutional Interpretation**

The second finding reveals that the Constitutional Court created a new legal norm through constitutional interpretation. Instead of merely invalidating the disputed provisions, the Court established a detailed constitutional guideline governing the sequence and timing of elections.

The newly established constitutional norm consists of three principal elements:

1. National elections shall simultaneously elect the President and Vice President, members of the DPR, and members of the DPD.
2. Regional elections shall simultaneously elect provincial DPRD members, regency/municipal DPRD members, governors, regents, mayors, and their respective deputies.
3. Regional elections must be held within two years to two years and six months after the inauguration of national elected officials.

Unlike ordinary judicial review decisions that only eliminate unconstitutional provisions, Decision Number 135/PUU-XXII/2024 introduces an affirmative constitutional arrangement that is directly applicable until the legislature enacts corresponding statutory amendments. Consequently, the decision possesses normative characteristics commonly associated with legislative policy-making.

## **C. Filling the Legal Vacuum (*Rechtsvacuum*)**

The third finding demonstrates that the Constitutional Court intentionally exercised its authority to prevent a legal vacuum (*rechtsvacuum*) following the declaration of conditional unconstitutionality.

Had the Court merely invalidated the statutory provisions concerning simultaneous elections without providing replacement constitutional guidance, uncertainty would have emerged regarding the scheduling of future national and regional elections. Such uncertainty could have disrupted electoral administration, legislative planning, and democratic governance.

By introducing a constitutionally binding timetable, the Court ensured continuity of electoral administration while maintaining constitutional certainty. Therefore, the newly formulated norm serves as a temporary constitutional framework that remains effective until the legislature revises the Election Law and Regional Election Law. This finding indicates that the Court's intervention was directed toward preserving constitutional order rather than replacing the legislative institution.

## **D. Implications for Indonesia's Electoral System and Democracy**

The fourth finding concerns the broader constitutional implications of the decision for Indonesia's democratic and electoral system.

The separation between national and regional elections is expected to generate several constitutional and institutional benefits. First, it reduces the excessive administrative burden experienced by election management bodies during simultaneous nationwide elections. Second, it provides political parties with greater opportunities to

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strengthen institutional consolidation between electoral cycles. Third, it enables voters to focus more effectively on different levels of political competition, thereby potentially improving electoral accountability and the quality of democratic participation.

Nevertheless, the decision also creates important legislative consequences. Parliament must harmonize various statutory provisions governing elections and regional elections to ensure consistency with the constitutional interpretation established by the Court. Accordingly, the decision has significant implications not only for election administration but also for the future development of Indonesia's constitutional and electoral legal framework.

Table 2 Comparison of Legal Norms Before and After Constitutional Court Decision Number 135/PUU-XXII/2024

| Aspect                           | Before the Constitutional Court Decision                                                            | After the Constitutional Court Decision                                                                                           |
|----------------------------------|-----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| Election Schedule                | National and regional elections were conducted simultaneously.                                      | National and regional elections must be conducted separately.                                                                     |
| Legal Basis                      | Article 167(3) of Law No. 7 of 2017 interpreted simultaneous elections as a single electoral event. | The Constitutional Court reformulated the constitutional meaning of Article 167(3) by separating national and regional elections. |
| Constitutional Interpretation    | No constitutional interval existed between national and regional elections.                         | Regional elections must be conducted 2 years to 2 years and 6 months after the inauguration of national elected officials.        |
| Legal Consequence                | No explicit constitutional guidance regarding election separation.                                  | A new binding constitutional norm was established through a conditionally unconstitutional ruling.                                |
| Role of the Constitutional Court | Negative legislator (reviewing constitutionality only).                                             | Positive legislator by formulating a new constitutional norm.                                                                     |
| Practical Impact                 | Heavy administrative workload and overlapping electoral stages.                                     | Improved electoral management, better institutional preparation, and enhanced democratic quality.                                 |

#### IV. DISCUSSION



Constitutional Court Decision Number 135/PUU-XXII/2024 represents one of the most significant developments in Indonesia's constitutional jurisprudence concerning the institutional role of the Constitutional Court (Mahkamah Konstitusi/MK). Unlike conventional judicial review decisions that merely invalidate statutory provisions inconsistent with the Constitution, this decision reformulates the electoral framework by introducing a new constitutional interpretation requiring national elections and regional elections to be conducted separately within an interval of two to two and a half years. Consequently, the Court did not merely remove unconstitutional norms but simultaneously established a new binding legal standard governing future electoral administration.

From the perspective of constitutional theory, this decision illustrates a clear transition from the Constitutional Court's traditional function as a *negative legislator* toward a *positive legislator*. According to Kelsenian constitutional review, constitutional courts generally function as negative legislators by annulling unconstitutional legislation without replacing it with new regulatory provisions. However, Decision No. 135/PUU-XXII/2024 demonstrates that the Court went beyond constitutional invalidation by formulating operational legal norms that directly regulate the timing and sequencing of elections. Such judicial law-making reflects an expanded constitutional role in which judicial interpretation becomes an instrument for filling legislative gaps (*rechtsvacuum*) and ensuring constitutional effectiveness.

This transformation is closely associated with the doctrine of *judicial activism*. Judicial activism recognizes that constitutional judges may legitimately adopt a proactive interpretative approach when statutory provisions fail to protect constitutional values adequately or when legislative inertia creates legal uncertainty. In this case, the Constitutional Court considered that simultaneous national and regional elections had generated institutional burdens, weakened electoral effectiveness, complicated party institutionalization, and reduced the quality of democratic participation. Rather than waiting for legislative amendment, the Court exercised constitutional interpretation to establish a normative solution that it considered consistent with constitutional democracy. Therefore, the judgment represents judicial activism not merely as judicial intervention but as constitutional guardianship aimed at safeguarding democratic governance.

Nevertheless, this expanded judicial role also raises important constitutional debates concerning the separation of powers. Critics may argue that by prescribing a new electoral schedule, the Constitutional Court entered the legislative domain constitutionally assigned to the House of Representatives (DPR) and the President. Such criticism reflects concerns that excessive judicial creativity could blur institutional boundaries and weaken democratic accountability because judges, unlike legislators, are not politically elected. Consequently, although the decision may strengthen constitutional protection, it simultaneously intensifies scholarly debate regarding the constitutional

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limits of judicial policymaking and the legitimacy of courts functioning as positive legislators.

From a practical perspective, the decision is expected to produce several immediate consequences. First, separating national and regional elections may reduce the administrative burden previously experienced by election organizers, political parties, candidates, and voters. Electoral management is likely to become more efficient because electoral stages no longer overlap within a single electoral cycle. Second, political parties may gain greater opportunities to consolidate organizational capacity between election periods, potentially improving candidate recruitment and policy competition. Third, voter attention may become more focused because national and regional political issues can be debated independently, thereby enhancing substantive democratic participation.

In the long term, however, implementation of the decision requires substantial regulatory harmonization. Several provisions contained in the Election Law, the Regional Election Law, and related implementing regulations must be revised to accommodate the constitutional interpretation established by the Court. Without legislative adjustment, inconsistencies between statutory provisions and constitutional jurisprudence may generate legal uncertainty during future electoral cycles. Accordingly, the legislature bears constitutional responsibility to translate the Court's constitutional interpretation into comprehensive statutory reforms.

Theoretically, Decision Number 135/PUU-XXII/2024 contributes significantly to the development of Indonesian constitutional law by reinforcing the evolution of the Constitutional Court as an active constitutional institution rather than merely a constitutional reviewer. This evolution reflects a broader global trend in constitutional adjudication where constitutional courts increasingly perform law-developing functions through constitutional interpretation. However, maintaining institutional legitimacy requires that judicial activism remain exceptional, proportional, and firmly grounded in constitutional principles rather than policy preferences. Otherwise, the expansion of judicial authority risks creating perceptions of judicial supremacy that may undermine the constitutional balance among state institutions.

Another important implication concerns Indonesian democracy itself. By redesigning the electoral cycle, the Court seeks to improve democratic quality, strengthen electoral integrity, and reinforce the principle of popular sovereignty. Nevertheless, democratic consolidation ultimately depends not only on judicial innovation but also on political commitment from legislators, election management bodies, political parties, and civil society. Constitutional adjudication alone cannot resolve structural weaknesses within Indonesia's electoral system unless accompanied by coherent institutional reforms.

### **Suggested Figure Placement**

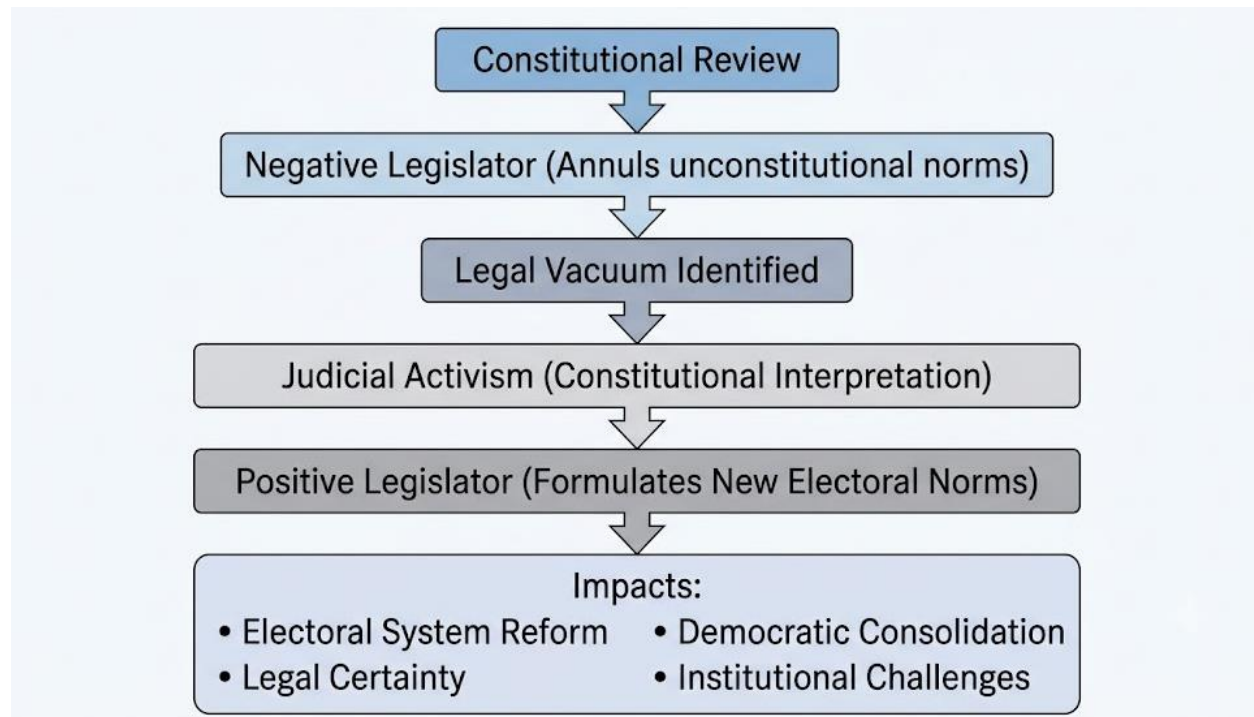


Figure 1. The Transformation of the Constitutional Court's Role in Decision No. 135/PUU-XXII/2024

The diagram illustrates that the Constitutional Court's role evolved from merely reviewing legislation toward actively formulating constitutional norms through judicial interpretation. This conceptual shift explains how judicial activism functions as the theoretical bridge connecting constitutional review with positive legislative outcomes.

### Policy Implications and Future Research

The findings suggest that the Government and the House of Representatives should immediately harmonize the Election Law and the Regional Election Law with Constitutional Court Decision Number 135/PUU-XXII/2024 to ensure consistency within Indonesia's electoral legal framework. Regulatory reform should also provide clear transitional provisions, implementation schedules, and institutional coordination mechanisms to minimize legal uncertainty before subsequent elections.

Future legal research should examine the constitutional boundaries of positive legislator decisions by comparing Indonesia with other constitutional courts, particularly those employing conditional constitutional judgments. Comparative constitutional studies would contribute to developing clearer doctrinal criteria distinguishing legitimate constitutional interpretation from judicial overreach, thereby strengthening both constitutional democracy and judicial legitimacy in Indonesia.

## V. CONCLUSION

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Putusan Mahkamah Konstitusi Nomor 135/PUU-XXII/2024 yang diucapkan tanggal 26 Juni 2025 merupakan putusan tingkat pertama dan terakhir dalam perkara review konstitusionalitas UU Nomor 7 Tahun 2017 tentang Pemilihan Umum juga UU Nomor 8 Tahun 2015 tentang Perubahan atas Undang-Undang Nomor 1 Tahun 2015 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2014 mengenai Pemilihan Gubernur, Bupati, juga Wali Kota terhadap UUD NRI Tahun 1945. Permohonan tersebut diajukan oleh Yayasan Perkumpulan untuk Pemilu dan Demokrasi (Perludem) yang diwakili oleh Khoirunnisa Nur Agustin selaku Ketua Pengurus Yayasan Perludem juga Irmalidarti selaku Bendahara Pengurus Yayasan Perludem.

Permohonannya, para pemohon meminta Mahkamah Konstitusi untuk menyatakan sejumlah ketentuan dalam Undang undang Pemilu dan UU Pilkada tidak sesuai dengan UUD NRI Tahun 1945 sepanjang tidak dimaknai secara konstitusional sesuai dengan konstruksi yang diajukan. Pada pokoknya, para pemohon menghendaki adanya pemisahan antara pemilu nasional juga pemilu daerah. Pemilu nasional diusulkan untuk memilih DPR, DPD, Presiden, juga Wakil Presiden, sedangkan pemilu daerah diperuntukkan bagi pemilihan DPRD juga kepala daerah. Selain itu, para pemohon mengusulkan agar pemilu daerah diselenggarakan setelah pemilu nasional dengan rentang waktu tertentu guna mewujudkan sistem pemilu yang lebih efektif dan selaras dengan prinsip-prinsip demokrasi konstitusional.

Pertimbangan hukumnya, Mahkamah mencermati dalil para pemohon yang menyatakan bahwa berlakunya Pasal 1 ayat (1), Pasal 167 ayat (3), dan Pasal 347 ayat (1) Undang-Undang Nomor 7 Tahun 2017 serta Pasal 3 ayat (1) Undang-Undang Nomor 8 Tahun 2015 ikut merugikan hak konstitusional para pemohon seharusnya dijamin terhadap Pasal 28C ayat (2) UUD NRI Tahun 1945. Menurut para pemohon, pengaturan mengenai keserentakan pemilu yang berlaku saat ini belum mampu mendorong terwujudnya demokrasi yang berintegritas, memperkuat kedaulatan rakyat, meningkatkan efektivitas sistem kepartaian, serta mengoptimalkan pelembagaan partai politik. Selain itu, model pemilu serentak yang berlaku dinilai berpotensi mengurangi kualitas partisipasi politik dan tidak sepenuhnya mendukung perlindungan hak pilih warga negara.

Berdasarkan keseluruhan pertimbangan hukum tersebut, MK menerima permohonan para pemohon yang sebagian. Dalam amar putusannya, Mahkamah menegaskan apabila Pasal 167 ayat (3) dan Pasal 347 ayat (1) Undang-Undang Nomor 7 Tahun 2017 tentang Pemilihan Umum tidak sesuai dengan UUD NRI Tahun 1945 jika tidak mempunyai kekebalan hukum sepanjang belum ditafsirkan apabila perkumpulan suara untuk memilih DPR, DPD, Presiden, juga Wakil Presiden dilaksanakan secara serentak dalam pemilu nasional, sedangkan pemungutan suara untuk memilih DPRD provinsi, DPRD kabupaten/kota, gubernur juga wakil gubernur, bupati juga wakil bupati, serta wali kota juga wakil wali kota dilaksanakan menyeluruh terhadap pemilu daerah setelah jangka waktu paling cepat 2 tahun dan paling lambat 2 tahun 6 bulan sejak pengukuhan Presiden/Wakil Presiden, DPR, juga DPD.

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Mahkamah juga memberikan Pasal 3 ayat (1) UU Nomor 8 Tahun 2015 tidak sesuai dengan UUD NRI Tahun 1945 juga belum mempunyai kekebalan hukum mengikat juga bersyarat sepanjang belum ditafsirkan bahwa pemilihan kepala daerah juga DPRD dilakukan menyeluruh diseluruh wilayah Negara Kesatuan Republik Indonesia ektimasi waktu paling cepat 2 tahun juga paling lambat 2 tahun 6 bulan setelah pelantikan Presiden/Wakil Presiden, DPR, juga DPD. Dengan demikian, putusan secara substansial mengubah gambaran kebersamaan pemilu di Indonesia juga memisahkan penyelenggaraan pemilu nasional juga pemilu daerah melalui pengaturan jeda waktu yang ditetapkan oleh Mahkamah Konstitusi.

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### **Postscript**

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