

Assessing the Role of Social Control in Criminal Policy on Grave Desecration in Bantul and Yogyakarta

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ABSTRACT

This study examines the phenomenon of juvenile delinquency, specifically the act of vandalizing graves, which not only violates the law but also undermines the social, cultural, and religious values within society. A legal approach alone is deemed insufficient to explain and prevent this phenomenon; therefore, a more comprehensive criminological perspective is required. This study aims to analyze the role of Hirschi's Social Control Theory in explaining the causes and prevention efforts regarding juvenile delinquency. This study employs an empirical method using a legal sociology approach, along with data collection techniques through observation and literature review. The results indicate that weak social bonds within family, school, and community environments contribute to increased risks of deviant behavior among adolescents. Specifically, low emotional attachment, weak commitment to values and the future, lack of involvement in positive activities, and a weak belief in social norms and the law are the primary factors driving such behavior. Conversely, strengthening these four elements has been shown to effectively reduce the potential for juvenile delinquency through preventive measures; therefore, various approaches are needed to reinforce these elements so that adolescents can avoid such behavior. This study emphasizes that preventing juvenile delinquency is not sufficient through a legal approach alone but must be balanced with the comprehensive strengthening of social control in the daily lives of adolescents.

Keywords: *Criminal offense; grave desecration; social control; youth.*

I. INTRODUCTION

The criminal offense of grave desecration is a violation of legal, social, and moral norms.¹ In the Indonesian criminal legal system, this act is regulated under Article 269 of the New Criminal Code, which states that anyone who intentionally defiles or damages a grave or memorial to the deceased shall be punished with imprisonment for a maximum of one year and four months or a fine.² This sanction reflects the legal protection of the final resting place, which is symbolic and sacred in society.³

The destruction of 18 Christian graves that occurred in mid-May 2025 in several locations in Bantul Regency and Yogyakarta City caused public concern. Although the police confirmed that the perpetrator's motive was not related to ethnicity, religion, or race and that there were no elements of religious hatred, this incident still caused unrest because it targeted objects that are highly respected socially and spiritually. The suspected perpetrator, ANF, is a 16-year-old teenager still in school and is known to have a family history of mental health issues. He admitted to the act and was captured on CCTV during the incident, even in broad daylight without special tools, indicating boldness and a lack of awareness of the consequences of his actions.⁴

The police handled this case using a diversionary approach because the perpetrator is a minor and the criminal charges are relatively minor. The perpetrator was not detained but instead placed in the care of the Youth Protection and Rehabilitation Center.⁵ Although legal action has been taken, this case raises a fundamental question: what is the role of the social system surrounding the perpetrator that allowed such acts of destruction to occur repeatedly and spread across four different locations?

¹ Tazkiya Rahma Nabila, "Landasan Konsep Pasal 181 KUHP Terhadap Kejahatan Penelantaran Mayat Dan Turut Serta Menyembunyikan Kematian," *Jurnal Global Ilmiah* 1, no. 11, 2024, p. 779, <https://doi.org/10.55324/jgi.v1i11.111>.

² Husna Jauhara, "Kebijakan Hukum Pidana Terhadap Perkosaan Mayat (Necrophilia)" (Universitas Jambi, 2021), p. 51.

³ Marihot Bernard and PL Tobing, "Penerapan Pasal 156A KUHP Sebagai Delik Penodaan Agama," *Journal of Syntax Literate* vol. 8, no. 9, 2023, p. 4958. <https://doi.org/10.36418/syntax-literate.v8i9.13550>.

⁴ "Fakta-Fakta Perusakan Makam Warga Kristen Di Bantul," *Tempo* (Jakarta), May 21, 2025, <https://www.tempo.co/hukum/fakta-fakta-perusakan-makam-warga-kristen-di-bantul--1503748>.

⁵ "Alasan Terduga Pelaku Perusakan Nisan Di Yogya Belum Ditahan Polisi," *Tempo* (Yogyakarta), May 20, 2025, <https://www.tempo.co/hukum/alasan-terduga-pelaku-perusakan-nisan-di-yogya-belum-ditahan-polisi-1493883>.

In addition to being governed by Article 269 of the Criminal Code, which addresses respect for the deceased,⁶ the handling of this case must also be understood within the framework of the Juvenile Criminal Justice System as established by Law No. 11 of 2012. Under this law, the approach is not purely punitive but focuses on restoring relationships between the perpetrator, the victim, and the community.⁷ This is achieved through diversion mechanisms for children, which involve transferring case resolution from the criminal justice process to alternative non-judicial settings with the aim of achieving restorative justice.⁸

Essentially, diversion is a form of special protection provided to children in conflict with the law, as stipulated in the Juvenile Criminal Justice System Act. This protection is not merely intended to shield children from formal judicial proceedings but also encompasses comprehensive support throughout every stage of the legal process, from investigation and prosecution through to trial. This signifies that the provisions in the law also affirm that children have certain rights that must be guaranteed when facing the law, whether during the judicial process, while serving a sentence, or after the legal process has concluded. With these provisions in place, it is clear that the juvenile criminal justice system is not solely focused on law enforcement, but also on the protection, rehabilitation, and future of the child as a member of society.⁹

In this case, the limitations of diversion as a post-offense intervention mechanism highlight the need for a more preventive approach. In this regard, it is necessary to evaluate social control mechanisms, which should serve as the first line of defense in preventing individuals from committing crimes. The theory of social control, as proposed by Travis Hirschi in his work *Causes of Delinquency* (1969),¹⁰ states that an individual's attachment to social institutions such as family, school, and community, as well as their

⁶ Fuadi Isnawan, "Islamic Approach to Violations against the Sanctity of the Deceased: A Case Study on Necrophilia in Islam," *Articles, Fikri : Jurnal Kajian Agama, Sosial Dan Budaya* vol. 9, no. 2, 2024, pp. 367–93. <https://doi.org/10.25217/jf.v9i2.5100>.

⁷ Fauzan Sugama et al., "Efektivitas Penerapan Restorative Justice Dalam Penyelesaian Tindak Pidana Anak Di Indonesia," *Jimmi: Jurnal Ilmiah Mahasiswa Multidisiplin* vol. 1, no. 3, 2024, p. 310. <https://doi.org/10.71153/jimmi.v1i3.148>.

⁸ Anita Zulfiani, "Restorative Justice Dan Penjatuhan Pidana Pada Anak," *Ranah Research: Journal of Multidisciplinary Research and Development* vol. 5, no. 4, 2023, p. 291. <https://doi.org/10.38035/rj.v5i4.778>.

⁹ Ririn Kurniasi, "Penerapan Restorative Justice Terhadap Anak Yang Menjadi Pelaku Tindak Pidana Melalui Diversi," *UNES Law Review* vol. 6, no. 4, 2024, p. 10825. <https://doi.org/10.31933/unesrev.v6i4.2056>.

¹⁰ Travis Hirschi, *Causes of Delinquency* (Berkeley, CA: University of California Press, 1969).

belief in moral and legal values, plays a crucial role in preventing criminal behavior.¹¹ If these social bonds are weak or fail to function effectively, individuals become more vulnerable to deviant behavior.¹²

The ANF case reflects the weakening of these social bonds. He lived with his mother and sister, who also suffered from mental disorders, had a tendency to run away from home, and did not receive intensive supervision from his family or the surrounding community. This shows the weakness of informal social control, which should be able to prevent deviant behavior before it develops into a criminal act.¹³ This is important because it positions crime prevention as part of a more preventive and humanistic non-penal approach.¹⁴ A penal (criminal law) approach is certainly still necessary as a last resort, but it must be balanced with strong social control efforts through the roles of families, schools, community leaders, and other social institutions.¹⁵ In other words, there needs to be a restructuring of crime prevention strategies that do not solely rely on law enforcement agencies but also activate social control within the perpetrators' environment.

Research on criminal acts related to the desecration of graves has essentially been conducted, but there are still limitations in the approaches used. Research by Orry Dwin Seftiandi focuses more on a criminological analysis of the desecration of graves classified as cultural heritage sites. The primary focus is on causal factors, both internal, and external factors, such as socioeconomic and environmental conditions. Although this research has comprehensively identified these causal factors, its approach remains

¹¹ Evgenia Postoeva and Viktor Shestak, "Criminological Theory of Social Control and Features of Its Application in China," paper presented at Law and Modern Economics, St. Petersburg, *Experience and Future. International Scientific and Practical Conference*, 2022, p. 2, <https://dx.doi.org/10.2139/ssrn.4077719>.

¹² Ramona Ciobanu, "The Social Control Of Drug Users Without Criminal Behaviour," *Dialog Teologic* vol. 26, no. 52, 2023. <https://doi.org/10.53438/DAPJ9238>.

¹³ Tim detikjogja, "Terungkapnya Misteri Perusak Nisan Salib Di Bantul Dan Jogja," *Detik.Com* (Yogyakarta), May 24, 2025, <https://www.detik.com/jogja/berita/d-7930090/terungkapnya-misteri-perusak-nisan-salib-di-bantul-dan-jogja>.

¹⁴ Cici Riski Sufi Amalia et al., "New Paradigm in The Treatment of Cyberbullying Crimes Through an Integrated Cyberbullying Prevention: A Non-Penal Policy in Indonesia," *Jurnal Legalitas* vol. 17, no. 1, 2024, p. 42. <https://doi.org/10.33756/jelta.v17i1.24900>.

¹⁵ Wagiman and Didi Jubaidi, "Ultimum Remedium Principles: Realizing Restorative Justice For Children In Conflict With The Law," *Articles, KRTHA BHAYANGKARA* vol. 18, no. 3, 2024, pp. 691. <https://doi.org/10.31599/krtha.v18i3.2984>.

descriptive-empirical and has not specifically examined how social control mechanisms function as preventive measures against such behavior.¹⁶

Meanwhile, the study conducted by Ainul Masruroh and her team focuses more on the normative legal aspects related to desecration of graves, particularly those of religious scholars. This study emphasizes the legal basis employed, such as provisions in the Criminal Code (KUHP) and the Law on Information and Electronic Transactions (ITE Law), as well as the urgency of protecting dignity, even after a person's death. However, this study remains limited to legal regulatory aspects and has not addressed the social dimensions underlying the occurrence of such acts, particularly from the perspective of community-based prevention.¹⁷

On the other hand, Hanafi's research examines the philosophical foundations for criminalizing acts related to corpses. This study asserts that crimes against corpses constitute a violation of religious norms, the values of Pancasila, and social order, which can cause unrest in society. Although it provides a strong philosophical basis regarding the importance of legal protection for corpses, this study has not concretely outlined how preventive efforts can be implemented through social mechanisms at the community level.¹⁸

This study aims to analyze how social control theory can be effectively applied in preventing criminal acts of grave desecration committed by adolescents. By examining concrete cases and linking them to social control theory, this study is expected to contribute to the development of community-based crime prevention strategies and refine the national criminal policy framework to be more responsive to the social dynamics and psychological conditions of perpetrators.

This study employs an empirical legal research method, often referred to as socio-legal research. In this approach, law is viewed not merely as a set of written rules, but also as a living, evolving social phenomenon within society.¹⁹ The approach used is the

¹⁶ Orry Dwin Seftiandi, "Tinjauan Kriminologi Terhadap Perusakan Cagar Budaya Makam Keramat Bantilan Di Kabupaten Sambas," *Jurnal Fatwa Hukum* vol.6, no. 4, 2023. <https://jurnal.untan.ac.id/index.php/jfh/article/view/71851>

¹⁷ Ainul Masruroh, Siti Afiyah, and Ari Wibowo, "Tinjauan Yuridis Penistaan Makam Ulama Di Indonesia," *HUMANIS: Jurnal Ilmu-Ilmu Sosial Dan Humaniora* VOL. 15, no. 2, 2023. <https://e-jurnal.unisda.ac.id/index.php/Humanis/article/view/6228>.

¹⁸ Hanafi Hanafi, "Landasan Filosofis Kebijakan Formulasi Kejahatan Terhadap Jenazah Dalam Pasal 180 KUHP," *VOICE JUSTISIA: Jurnal Hukum Dan Keadilan* vol. 3, no. 1 2019, pp.73–95. <https://journal.uim.ac.id/index.php/justisia/article/view/812>

¹⁹ Muhaimin Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020), 82.

sociology of law. This approach aims to examine law within a social context, so that it does not merely focus on the content of the rules, but also on how those rules function, are applied, and sometimes fail to operate as intended in society. Through this approach, the study seeks to both explain and critique the role of law in regulating social behavior.²⁰

Data collection in this study was conducted through observation.²¹ The researcher directly observed social phenomena related to adolescent behavior and social control within the community. This observation was used to obtain a realistic picture of how social interactions occur and how social values are applied in daily life.

The data used in this study consists of primary and secondary data. Primary data was obtained directly through field observations. Meanwhile, secondary data was obtained from various available sources, such as books, scientific journals, previous research findings, laws and regulations, as well as other documents relevant to the research topic. In the context of legal research, this secondary data also includes primary legal materials, namely laws and regulations. Secondary legal materials come from scientific journals, books, research findings, as well as tertiary legal materials such as legal dictionaries and other supporting references.²²

Furthermore, data analysis is conducted using a qualitative approach. This approach emphasizes a deep understanding of the data obtained, rather than merely focusing on numbers or figures alone. The collected data is then analyzed descriptively to depict the actual conditions in the field. In this process, the researcher identifies relevant and high-quality data to then connect it to the research problem.²³ democracy.

II. DISCUSSION

1. Antinomy of Norms of the 1945 Constitution and Interpretation of the Constitutional Court

The Constitutional Court Decision No. 135/PUU-XXII/2024 is a judicial

²⁰ Suyanto, *Metode Penelitian Hukum Pengantar Penelitian Normatif, Empiris Dan Gabungan* (Gresik: UNIGRES PRESS, 2022), 148.

²¹ Nur Solikin, *Pengantar Metodologi Penelitian Hukum* (Pasuruan: Qiara Media, 2021), 118.

²² Muhammad Syarif et al., *Metode Penelitian Hukum* (Padang: GET Press Indonesia, 2024), 72.

²³ Sigit Supto Nugroho, Anik Tri Haryani, and Farkhani, *Metodologi Riset Hukum* (Surakarta: Oase Pustaka, 2020), 102.

intervention that is not only corrective to the design of the five-box election, but also contains constitutional consequences that go beyond the technical realm of elections. In its consideration, the Court adopted a progressive interpretation of Article 22E of the 1945 Constitution of the Republic of Indonesia which mandates that elections be held simultaneously. However, in the construction of the Court, simultaneity does not have to be interpreted as a concentration of time in one day, but as an election cycle consisting of two waves, namely national and regional.²⁴ This interpretation does have administrative rationality and pay attention to the burden of the organizers, but ignores its direct connection with constitutional norms regarding the term of office, especially members of the House of Representatives and the House of Representatives. This opens up space for tension between two legal norms that both have a binding nature, namely the written norms of the Constitution and constitutional interpretation by the Court.

This tension stems from the position of term norms in the structure of Indonesian constitutional law. Article 22E paragraph (1) of the 1945 Constitution of the Republic of Indonesia explicitly states that elections for members of the DPR, DPD, and DPRD are held every five years. This norm is rigid and contains a constitutional mandate on the principle of periodization of power in the electoral democratic system.²⁵ Therefore, any attempt to extend or cut the term of office of the legislature must be subject to the mechanism of constitutional amendment, not merely administrative justification or institutional interpretation. This is where the problem lies, Constitutional Court Decision No. 135/PUU-XXII/2024, although it does not explicitly regulate the extension or cut of term of office, demands the consequences of adjusting the election time which is very likely to shift the term of office. In other words, the Court creates a normative effect that is in direct contact with a rigid constitutional design.

In constitutional law doctrine, this situation is known as constitutional antinomy. Constitutional antinomy is a conflict between two legal norms that both originate from the constitution or have constitutional binding force.²⁶ On the one hand, the Constitutional

²⁴ Hantoro, B. F. Originalisme dan Syarat Keserentakan Pemilu dalam Putusan Mahkamah Konstitusi. *Undang: Jurnal Hukum*, vol. 6, no. 1, 2023, pp. 33-64. <https://doi.org/10.22437/ujh.6.1.33-64>

²⁵ Ramdani, A. K., & Hulwanullah, H. Dampak Penafsiran Konstitusi Terhadap Perkembangan Politik Hukum Penyelesaian Perselisihan Hasil Pemilihan. *ADLIYA: Jurnal Hukum dan Kemanusiaan*, vol. 16, no. 2, 2022, pp. 178-197. <https://doi.org/10.15575/adliya.v16i2.20586>

²⁶ Endrik Safudin. (2021). *Harmonisasi Hukum dalam Antinomi Hukum: Telaah Kritis atas Penerapannya oleh Mahkamah Agung*. Q Media, Yogyakarta, hlm. 33.

Court's decision is final and binding, and has legal force equivalent to the constitution in terms of interpretation. But on the other hand, the written provisions in the Constitution remain the highest basic law (*grundnorm*) that cannot be overruled. If the implementation of the Constitutional Court's decision has an impact on the extension of the position of the DPR or DPRD, then the state has the potential to violate Article 22E of the Constitution. On the other hand, if it does not implement the Court's decision, the state also violates the principle of compliance with binding judicial decisions. This creates an executive and legislative dilemma, as well as invites debate in the academic community about the limits of constitutional interpretation by the judiciary.

This antinomy implication opens up a large space for what scholars call constitutional engineering. This term is basically neutral, referring to all forms of normative engineering to rearrange the constitutional system according to the demands of the times.²⁷ But in the practice of political law, engineering often deviates from constitutional ethics, especially when used to perpetuate power, extend term of office, or delay elections. In the context of the Constitutional Court's Decision No. 135/PUU-XXII/2024, a transition space that is not designed with strict norms has the potential to be infiltrated by political interests to justify extending the terms of office of members of the House of Representatives and the House of Representatives outside the amendment mechanism. This situation demands strict supervision and clarity of the transitional legal design so that constitutional interpretation does not turn into a pragmatic tool of the elite to secure positions of power.

Constitutional Court Decision No. 135/PUU-XXII/2024 does not explicitly stipulate the extension or cut of the term of office of public officials. However, the Court recognizes that the separation of national and regional elections in two waves will have an impact on a non-uniform calendar of positions. In its consideration, the Court leaves it to the lawmakers to prepare an adequate transition design. However, the Court also emphasized that the arrangement must pay attention to the term of office as stipulated in the 1945 Constitution, especially for central and regional legislative institutions. Thus, the Court does not provide a "blank check" for power engineering, but rather demands constitutional rigor in drafting transitional arrangements. Therefore, the space between

²⁷ Al Alawi, M. N. K. Implementasi Teori Law as a Tools of Social Engineering Mahkamah Konstitusi sebagai Instrumen Kontrol Sosial dalam Sistem Hukum Indonesia. *Indonesian Journal of Law and Justice*, vol. 2, no. 2, 2024. <https://doi.org/10.47134/ijlj.v2i2.3393>

the decision and the implementation is an important arena that must be filled with democratic, legal, and legitimate policies.

The problem lies in the operational ambiguity of the phrase "adjusted in law" as used by the Court. On the one hand, lawmakers are given the flexibility to design implementation schemes. On the other hand, there is no rigid guidance in the decision regarding how to avoid conflicts with the norm of the five-year term of office in Article 22E paragraph (1) of the 1945 Constitution. The phrase "adjusted" can be interpreted to mean an extension of office, the appointment of an official, or a separate election outside of the ideal cycle.²⁸ This guideline vacuum can create a constitutional fabrication that violates the principle of limited government. If the meaning of "adjustment" is carried out opportunistically by the lawmakers, then the transition space can turn into a space for manipulation, not systemic correction.

In the doctrine of constitutional governance, the design of the transition of power is not only technical, but also a substantive constitutional moment that determines the direction of electoral accountability. The Court has indeed provided an outline of the direction of simultaneous reformulation, but the moral and political responsibility remains in the hands of the legislature and the executive. This is where it is important to keep any transition scheme subject to the main constitutional norms, namely the limitation of power through regular elections and fixed terms. If the shift in the election results in a mismatch in the office calendar, then it is necessary to design a transitional arrangement that is limited, temporary, and subject to judicial evaluation. Such a mechanism can avoid the practice of constitutional disregard in the name of implementing court decisions.²⁹

In practice, the Court also opens up the possibility of gradual synchronization which in progressive interpretation can be interpreted as an opportunity to design a time gap between national and regional elections without having to crash into the constitution. However, this scheme requires clarity from the beginning, whether there will be a cut-off of positions to avoid extensions; whether regional heads and DPRD will be elected at

²⁸ Cafaggi, F., & Iamiceli, P. Uncertainty, administrative decision-making and judicial review: The courts' perspectives. *European Journal of Risk Regulation*, vol. 12, no. 4, 2021, pp. 792-824. <https://doi.org/10.1017/err.2021.47>

²⁹ Minan, A., Arinanto, S., & Djohan, D. Local Chief Executive Political Accountability in Indonesia: A Historical-Legal Analysis, *Constitutional Review*, vol. 10, no. 1, 2024, pp. 33-66. <https://doi.org/10.31078/consrev1012>

different times; and how to assess the validity of term of office that exceeds 5 years. Without that clarity, all forms of legal engineering actually weaken the credibility of the Court and open up space for delegitimization of decisions. This is a test for the Court's consistency in upholding the principle of non-extension of term of office that it has affirmed in previous decisions.³⁰

Thus, efforts to execute the Constitutional Court Decision No. 135/PUU-XXII/2024 are at the intersection between compliance with judicial decisions and adherence to written constitutional norms. A transition scheme that is politically legitimate, is not necessarily constitutionally legitimate. Therefore, any form of extension or reduction of term of office must be accompanied by a strong constitutional justification, and supervised through a constitutional review mechanism if necessary. This is where the role of the Court as a constitutional guardian is tested, whether the Court will allow lawmakers to interpret their decisions freely, or whether they will continue to maintain the corridor so that the implementation of decisions does not turn into an unconstitutional power engineering.³¹

One of the options that can be considered in executing the Constitutional Court Decision 135/PUU-XXII/2024 constitutionally is through adjustments based on limited transitional arrangements, namely a kind of temporary constitutional adjustment with a clear normative mandate, strict time restrictions, and a strong basis of legitimacy.³² For example, if the term of office of the DPRD that should end in a certain year cannot be consolidated simultaneously with the national elections, then the solution is not to extend it in full, but to impose transitional positions that are limited within the framework of constitutional law and supervision. Such adjustments must be accompanied by explicit norms, both through laws and judicial reinterpretation so as not to become a precedent for the practice of power engineering in the future. In this framework, the principle of checks and balances and public participation in drafting transitional norms are important

³⁰ Windrawan, P. Pergeseran Kekuasaan Tipologi Ketiga; Fenomena Kekuasaan Ke Arah Constitutional Heavy. *Jurnal Konstitusi*, vol. 9, no. 4, 2016, pp. 613–642. <https://doi.org/10.31078/jk942>

³¹ Saragih, G. M., Nasution, M., & Sihombing, E. N. Makna Filosofis Putusan Mahkamah Konstitusi Dalam Constitutional Review Dan Urgensi Judicial Activism. *Masalah-Masalah Hukum*, vol.53, no. 3, 2024, pp. 326-335. <https://doi.org/10.14710/mmh.53.3.2024.326-335>

³² Nwokora, Z. Constitutional design for dynamic democracies: A framework for analysis. *International Journal of Constitutional Law*, vol. 20, no. 2, 2022, pp. 580-610. <https://doi.org/10.1093/icon/moac030>

as a control mechanism for potential power deviations.³³

In the history of Indonesian constitutionalism, we have precedents for transition periods of office and specially regulated elections, such as during the 1998 reform or the consolidation of democracy in the early 2000s. However, lessons from the past show that any transitional arrangement that is not framed in strict constitutional norms always opens up opportunities for power abuses. In fact, in some cases, transitions are used as a pretext to extend the term of office or postpone elections.³⁴ In the context of the Constitutional Court Decision 135/PUU-XXII/2024, it is important to distinguish between a legitimate transition and a manipulative transition. The legitimate transition is based on the principle of temporary necessity, public openness, and does not violate the substantive norms of the constitution. Meanwhile, the manipulative transition was born from political delays and legal loopholes. If the Court wants to maintain its credibility as a constitutional guardian, then the oversight of the transition design is as important as the initial interpretation it gives.³⁵

Furthermore, the concept of term of office in the 1945 Constitution is not just a limitation of administrative time, but a concrete form of the principle of limited government. A five-year term of office is not just a number, but a symbol of the will of the people which is reflected periodically through elections. Therefore, any form of extension of office, even if it is only temporary, must have formal legitimacy and have a legal basis that does not conflict with constitutional norms.³⁶ Without this, the transitional design actually becomes a form of creeping unconstitutionality that undermines public trust in state institutions, including the Court itself. Therefore, the question that must be asked is not only how to implement the Constitutional Court Decision 135/PUU-XXII/2024, but how to keep it within the corridor of constitutional supremacy and healthy procedural democracy.

³³ Fahira, Y. Sistem Checks and Balances dalam Menjaga Prinsip Demokrasi di Indonesia. *Jurnal Media Akademik (JMA)*, vol. 3, no. 6, 2025. <https://doi.org/10.62281/v3i6.2173>

³⁴ Hoesein, Z. A. Pemilu Kepala Daerah dalam Transisi Demokrasi. *Jurnal Konstitusi*, vol.7, no. 6, 2016, pp. 001–024. <https://doi.org/10.31078/jk761>

³⁵ Nugroho, W. Politik Hukum Pasca Putusan Mahkamah Konstitusi atas Pelaksanaan Pemilu dan Pemilukada di Indonesia. *Jurnal Konstitusi*, vol.13,no. 3, 2016, pp. 480-502. <https://doi.org/10.31078/jk1331>

³⁶ Ristyawati, A., Utama, YJ, Wardhani, LTAL, & Hanum, WN. MEMIKIRKAN KEMBALI BATAS MASA LEGISLATIF: MENJAGA PEMBARUAN DEMOKRASI DALAM KONSTITUSI NEGARA INDONESIA. *Tinjauan Hukum Diponegoro*, vol. 10, no. 1, 2025, pp. 16-28. <https://doi.org/10.14710/dilrev.10.1.2025.16-28>

This is where the Court should be more assertive. The Constitutional Court Decision 135/PUU-XXII/2024 is indeed quite progressive in offering a solution to the chaos of the five-box simultaneous elections. However, this progressivity should not stop at normative assessments, but rather continue with concrete instructions on the design of a constitutional transition. Without more directed guidance, lawmakers have the potential to use this ruling as a justification for unconstitutional power maintenance practices. It is not enough for the court to be a negative legislator or passive interpreter. In the context of major changes like this, the Court is required to play the role of constitutional architect, namely not only to give direction, but also to ensure that the constitutional architecture is not hijacked by the pragmatism of power.³⁷ This means that supervision of implementation is an inseparable part of the integrity of the decision itself.

Taking into account all these variables, the implementation of the Constitutional Court Decision 135/PUU-XXII/2024 must be approached through three main principles: (1) fidelity to the Constitution, full fidelity to constitutional norms, including term of office; (2) transitional discipline, transitional arrangements that are temporary, firm, and proportional; and (3) democratic integrity, which ensures that every implementation design maintains public trust and democratic legitimacy. If these three principles are ignored, then what the Court calls a solution to simultaneous elections will actually give birth to a much larger constitutional problem. This is a constitutional paradox that must be prevented from the start, not by delaying, but by carefully designing. Because in constitutional law, it is not only the norm that is important, but also the way we execute it.

2. Transition Design and Projections of Election Law Politics in the Future

The design of the transition of power after the Constitutional Court Decision No. 135/PUU-XXII/2024 requires an approach that is not only legalistic, but also constitutional in a substantive sense. The Court has corrected the dysfunction of the total synchronization system in the five-box election and given the direction of limited synchronization reform. However, this shift in electoral architecture raises crucial

³⁷ Sadzali, A. Peranan Mahkamah Konstitusi dalam Mewujudkan Demokrasi Substantif pada Pemilu 2024 melalui Penegakan Hukum Progresif. *As-siyasi: Journal of constitutional law*, vol. 2, no. 2, 2022, 2022, pp. 193-218. <https://doi.org/10.24042/as-siyasi.v2i2.14948>

questions related to how to manage tenure and succession of power so as not to hurt the principles of regular elections and the periodization of power. The transitional design must be able to bridge the logic of the separation of national and regional elections while maintaining the continuity of government and avoiding vacancies or extensions of power without constitutional basis. In this context, the formulation of the transition is not merely scheduling, but the process of designing a new norm that keeps the democratic ecosystem healthy and consistent with the mandate of the 1945 Constitution.

The main principle in designing a power transition is to guarantee the absence of power without a mandate. Term of office is a political contract between the people and public officials, and any changes to it must be based on legitimate legal norms and the logic of democratic justice. One concrete alternative is to use a transition scheme based on "limited extension with constitutional basis", which is a limited extension of office with a strict time and scope, and accompanied by institutional accountability. However, this solution can only be applied if it does not contradict the text of the constitution, for example during the term of office of regional heads which are regulated by law, in contrast to the DPR and DPRD which are directly regulated by the Constitution. Therefore, the transition design needs to distinguish between types of positions based on their normative sources so as not to generalize approaches that can lead to violations of the legal hierarchy.³⁸

The idea of "limited extension with constitutional basis" is one of the solutions to the transition of power that remains based on constitutionalism. This model is not an extension of ordinary office full of political agendas, but rather a technocratic mechanism designed in a limited and rational manner in response to the need to align national and local election times.³⁹ Under this scheme, the term of office of certain public officials can be temporarily extended with the main conditions: (1) it is strictly limited in duration and scope, (2) it is run through clear legal norms, and (3) it is subject to judicial and public

³⁸ Mujahidah, M., & Tibaka, L. Presidential Term Limits in the Perspective of the Constitution: Avoiding Authoritarianism in the Era of Democracy: Pembatasan Masa Jabatan Presiden dalam Perspektif Konstitusi : Menghindari Otoritarianisme di Era Demokrasi. *Jurnal Konstitusi*, vol. 21, no. 4, 2024, pp. 680–697. <https://doi.org/10.31078/jk2147>

³⁹ Ibrahim, M. Pembatasan Kekuasaan Amendemen Konstitusi: Teori, Praktik di Beberapa Negara dan Relevansinya di Indonesia. *Jurnal Konstitusi*, vol. 17, no. 3, 2020, pp. 558–581. <https://doi.org/10.31078/jk1735>

scrutiny. The principle is to prevent a power vacuum without opening up opportunities for creeping extensions or unconstitutional normalization of tenure. This scheme must be once-and-for-all, cannot be repeated or used as a precedent. Therefore, its legality and accountability must be guaranteed through transitional legislation products that are closely monitored by the Court and civil society.⁴⁰

However, the implementation of the "limited extension" scheme cannot be applied uniformly to all types of positions, because each position has a different legal basis. The term of office of members of the House of Representatives and the House of Representatives is explicitly regulated in the 1945 Constitution, which is five years, so changes in the duration of their term of office cannot be made except through constitutional amendments. Meanwhile, the term of office of regional heads is regulated in the Law (Law No. 10 of 2016), so that adjustments are still possible through the revision of the law without hitting the basic norms.⁴¹ This is where it is important to distinguish the normative sources of each position in the transition design, generalizing the approach will risk violating the hierarchy of legal norms. If the extension of the DPR's position is carried out through a law without constitutional amendments, then it is not only unconstitutional, but also undermines the legal order that guarantees the supremacy of the 1945 Constitution as the highest norm.

In addition, the transition of power must be designed gradually with the principle of harmony of the democratic cycle, both at the national and regional levels. In practice, synchronization does not have to be done simultaneously in one major election, but can be done progressively based on the existing office calendar. This model has been applied in the 2015–2020 simultaneous regional election scheme which adjusts the wave of regional elections gradually.⁴² The gradual transition scheme will also prevent the accumulation of administrative burdens, avoid power vacancies, and better respect the

⁴⁰ Camesi T.I and Susanti P. (2025). ANALISIS YURIDIS PENGHITUNGAN MASA JABATAN KEPALA DAERAH BERDASARKAN PUTUSAN MAHKAMAH KONSTITUSI DALAM MEWUJUDKAN KEPASTIAN HUKUM. *Jurnal Kritis Studi Hukum*, vol. 10, no. 5, 2025, pp. 129-138. <https://ojs.co.id/1/index.php/jksh/article/view/3025>

⁴¹ Al Kautsar, M., & Kurniawan, K. Pembatasan Periode Masa Jabatan Anggota Legislatif. *Jurnal Ilmiah Mahasiswa Bidang Hukum Kenegaraan*, vol. 3, no. 3, 2019. pp. 361-371. <https://jim.usk.ac.id/kenegaraan/article/view/16154>

⁴² Rahayu, N. P., & Kartika, A. W. Pengaturan masa jabatan kepala daerah dalam hukum positif Indonesia. *Jurnal Kertha Semaya*, vol. 11, no. 6, 2023, pp. 1333-1348.

term of service of officials who are in office legally. With this approach, the transition does not become a tool of political opportunism, but rather a systemic process to harmonize a more measurable, stable, and accountable national electoral architecture.

It is also important to emphasize that the transition design must maintain voter rationality and electoral integrity. One of the main problems in the previous five-box simultaneous elections was the decline in the quality of the people's choice due to voter fatigue, technical complexity, and lack of substantive involvement in the campaign.⁴³ With the separation of national and regional elections, the quality of voter participation has the potential to increase as their focus will be more proportionately divided. However, this can only happen if the transition design does not create new confusion due to changes in the timing, mechanism, or legitimacy of candidates in non-uniform tenure. This means that voters must obtain legal certainty and political certainty in determining their voting rights, and this can only be achieved through an orderly, informed, and honest transition in legal engineering.

The transitional design must also strengthen the institutionalization of political parties, which are the main actors in each electoral stage. In the previous condition, the burden of the party in managing election logistics, cadre distribution, and campaign strategies in the five-box simultaneous elections was very heavy and counterproductive to strengthening institutions. With the model of national and regional simultaneous elections as offered by the Court, parties can focus more on the formation of a platform and quality candidacy, especially if the timing of national and local elections does not overlap.⁴⁴ However, this positive effect can only appear if the transition scheme does not interfere with the legitimacy of cadre recruitment, does not cause conflicts between internal groups, and provides certainty to the term of office that is the basis of the party's organizational structure. Therefore, the clarity of the transition norms will help determine the direction of the consolidation of political parties as the foundation of democracy.

⁴³ Hanida, R. P., Meldianto, R. P., & Hasnita, S. S. Simultaneous National and Local Elections 2024: Triggering Voter Fatigue, Coattail Effect, and Political Polarization in Indonesia. *KnE Social Sciences*, vol. 10, no. 4, 2025, pp. 21-36. <https://doi.org/10.18502/kss.v10i4.18024>

⁴⁴ Kartabrata, F. R. (2023). *Penguatan Peran Partai Politik dalam Pemilihan Umum Legislatif Pasca Putusan Mahkamah Konstitusi No. 114/PUU-XX/2022*. *Litigasi: Jurnal Hukum dan Politik*, vol. 24, no. 2, 2023, pp. 229-260. <https://doi.org/10.23969/litigasi.v24i2.9860>

In addition to strengthening political institutions, the design of the transition of power must also be projected to encourage the strengthening of the presidential system which is Indonesia's constitutional choice. One of the root problems in the five-box simultaneous elections is the weak synergy between the presidential system and its electoral design. Elections that pile up legislative and executive agendas at the same time actually nourish transactional practices and political fragmentation, which are counterproductive to the presidential system that requires stability and government cohesion.⁴⁵ By separating national and regional elections, as emphasized in Constitutional Court Decision 135/PUU-XXII/2024, it is hoped that strengthening the presidential support base in parliament can be more rational and proportionate. However, without an adequate transitional design, these efforts can fail due to the lack of consistency between electoral logic and the structure of state institutions. This means that the reform of the electoral system must go hand in hand with the reconstruction of the power calendar that ensures the sustainability of the principle of presidentialism.

Another projection of the power transition design is to anticipate conflicts of legitimacy in the term of office as a result of synchronization. If national and regional elections are separated and the term of office is not concurrent, there will be consequences for the legitimacy of officials who serve longer or shorter than they should.⁴⁶ This needs to be anticipated from the beginning with explicit transitional norms based on public consent. For example, whether regional heads who end before the regional simultaneous elections will be filled by acting or temporarily extended, or whether DPRD members will remain in office while waiting for local legislative elections. All of these scenarios demand a strong legal basis and legitimacy design. Because without public legitimacy, the transition will only give birth to local political instability, weaken trust in elections, and give rise to lawsuits against the power base of public officials in the transitional period.

From a political and legal aspect, this transitional design is an important momentum to revise the electoral regulatory architecture as a whole. Law No. 7 of 2017, which is the

⁴⁵ Solihah, R. Peluang dan tantangan pemilu serentak 2019 dalam perspektif politik. *JlIP: Jurnal Ilmiah Ilmu Pemerintahan*, vol. 3, no. 1, 2018, pp. 73-88. <https://doi.org/10.14710/jiip.v3i1.3234>

⁴⁶ Prayudi, P. Agenda Pemilu Serentak: Pemisahan Pemilu Nasional dan Pemilu Lokal. *Jurnal Politika Dinamika Masalah Politik Dalam Negeri dan Hubungan Internasional*, vol. 12, no.1, 2021, pp. 67-84. <https://doi.org/10.22212/jp.v12i1.1768>

foundation of the current national election system, has experienced structural pressure due to the development of constitutional interpretation. The Constitutional Court has opened up space for a total reorientation of the simultaneity system, so that lawmakers cannot only do administrative patchwork. A new formulation is needed that regulates not only the schedule, but also the term of office, the procedures for recruiting candidates, the consistency of the power calendar, and the supervisory system during the transition period. This reform is not only technical, but also a reflection of the nation's political law on the future of electoral democracy. Therefore, transitional arrangements should be part of a serious national legislation agenda, not discussed in emergency situations or simply the accommodation of the short-term interests of the elite.⁴⁷

But in the current political context, it is not easy to devise an ideal power transition design. Political fragmentation in the House of Representatives, tug-of-war between the central and regional governments, and the tendency of the executive to maintain short-term stability, have the potential to sacrifice the quality of the transitional legal design. In such a situation, civil society, academics, and the Court itself must appear as the guardian of public reasoning so that the transition is not only procedurally legitimate, but also legitimately substantive. The Court, as the constitutional guardian, has the responsibility not only to state the interpretation, but also to ensure that the interpretation is not manipulated by the lawmakers. This escort is important because history has shown that poor transition engineering always paves the way for an unconstitutional expansion of power, either tacitly or through pseudo-normalization.⁴⁸

The design of the transition of power after the Constitutional Court Decision 135/PUU-XXII/2024 is not just a technical agenda, but a constitutional test that will determine the direction of Indonesia's democratic consolidation in the future. As a recommendation, what needs to be done immediately is the preparation of transitional rules which are explicitly contained in the revision of the Election Law and the Regional Government Law. This rule must stipulate three main things: first, the mechanism of transitional positions that are non-permanent and do not open the space for politicization

⁴⁷ Fuadi, A. B. Politik Hukum Pengaturan Keserentakan Pemilu. *Jurnal Konstitusi*, vol. 18, no. 3, 2022, pp. 702–723. <https://doi.org/10.31078/jk18310>

⁴⁸ Gunawan, A. ., & Heryanti, F. Analisa Yuridis Potensi Revisi UU No. 7 Tahun 2017 Tentang Pemilu. *Jurnal Pendidikan Dan Konseling (JPDK)*, vol. 4, no. 5, 2022, pp. 382–391. <https://doi.org/10.31004/jpdk.v4i5.6611>

of power; second, the establishment of a maximum limit of six months of transition period to avoid too long a power vacuum; third, the implementation of automatic judicial evaluation by the Constitutional Court on the design of the transition of power of regional heads as an effort to maintain the principle of checks and balances in the constitutional system. This recommendation aims to ensure that the democratic process continues to run within the constitutional corridor and avoids potential abuse of power during the vacancy period.

III. CONCLUSION

The Constitutional Court Decision No. 135/PUU-XXII/2024 has opened a new chapter in Indonesia's election architecture, by canceling the total simultaneous system and leading to a "two breaths of elections" model between national and regional elections. However, this shift did not come without constitutional consequences, especially regarding the term of office and the design of the transition of power. In the progressive but open interpretation space of the Court, there is an urgent need to formulate a transition scheme that is not only legally valid, but also constitutionally legitimate. The extension or cut of the term of office cannot be done uniformly, but must be differentiated based on the normative source of the position. The idea of "limited extension with constitutional basis" is one of the rational compromise options. In the future, the implementation of the Constitutional Court's decision must be strictly monitored so that it does not become a justification for power engineering, but a momentum to improve a constitutional, stable, and democratic electoral system.

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