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The Election of Contradictions": Indonesia's 2024 Simultaneous Regional Head Elections in Antinomy Perspective

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Abstract

Unlike the previous model of simultaneous regional head elections, which were held in waves, the simultaneous elections in 2024 will be held on the same day nationally. This leaves several issues, including the appointment of temporary officials due to several vacancies in regional head positions and the shortening of the terms of office of several definitive regional heads. By utilizing the antinomy perspective, this study aims to examine the contradictions in the 2024 simultaneous regional head election policies. Based on normative analysis of secondary data using a statutory and conceptual approach, We find that under the policy of simultaneous regional elections, there exist two sorts of antinomies: normative and principled antinomies. The 2024 simultaneous regional head elections aim to create government stability and budget efficiency. However, the purpose of political stability has a greater risk of causing instability instead. Meanwhile, the benefit from budget efficiency runs contrary to legal certainty principles as a result of shortening the regional head's fixed term of office, which is considered a political right guaranteed by law. On that premise, this analysis provides insight into the transition challenges from conventional to simultaneous local elections.

Keywords: Regional Head Election; Antinomy of Law; Contradiction

A. Introduction¹

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To this day, elections still become the main benchmark for a country's democratic practices.² Experts claim that holding fair elections can raise citizens' satisfaction with the democratic system.³ This is partly because people can vote based on their political preferences and escort the candidate of their choice until they win. In this regard, elections have become a catalyst for the realization of democracy's representative function.⁴ Thus, direct elections (one man, one vote) are more widely accepted and favored than indirect ones. In line with Robert Dahl's assertion that democratic practices, such as voting, are more legitimate than other practices. This is so that everyone can voice their ideas and receive equal treatment under the law.⁵

The Republic of Indonesia's road toward democracy has become inextricably linked to elections themselves. The rise of Indonesian democracy began with a constitutional amendment that allowed for direct general elections, even though democracy was usurped by the Old Order regime and transferred to the New Order regime, which exercised power in an oppressive and heavily centralized manner. General elections are held directly, publicly, voluntarily, in strict confidence, honestly, and fairly every five years, as specified in Article 22E, Paragraph 1, of the 1945 Constitution. As time passed, elections for regional heads of government began to take place alongside those for the president and members of the legislature. Elections for regional leaders are held in accordance with the mandate of the constitution and statutory requirements to democratically elect governors at the provincial level, as well as regents/mayors at the district and city levels. The majority of parties see this as evidence of the localization of democracy. Even now, the government holds direct elections at both the national and regional levels regularly.

Democracy development at the local level is one of the agendas pursued by many countries around the world, one of which is improving the quality of the regional electoral system and process.⁶ The same was done with Indonesia's regional head election system, which, according to the evaluation results, had many flaws, including a high number of frauds⁷, corruption⁸,

² Toby S. James and Sead Alihodzic, "When Is It Democratic to Postpone an Election? Elections during Natural Disasters, Covid-19, and Emergency Situations," *Election Law Journal: Rules, Politics, and Policy* 19, no. 3 (2020): 344–62, <https://doi.org/10.1089/elj.2020.0642>.

³ André Blais, Alexandre Morin-Chassé, and Shane P. Singh, "Election Outcomes, Legislative Representation, and Satisfaction with Democracy," *Party Politics* 23, no. 2 (2017): 85–95, <https://doi.org/10.1177/1354068815583200>.

⁴ Christopher Warshaw, "Local Elections and Representation in the United States," *Annual Review of Political Science* 22 (2019): 461–79, <https://doi.org/10.1146/annurev-polisci-050317-071108>.

⁵ Mikael Persson, Peter Esaiasson, and Mikael Gilljam, "The Effects of Direct Voting and Deliberation on Legitimacy Beliefs: An Experimental Study of Small Group Decision-Making," *European Political Science Review* 5, no. 3 (2013): 381–99, <https://doi.org/10.1017/S1755773912000173>.

⁶ Hester M. van de Bovenkamp and Hans Vollaard, "Strengthening the Local Representative System: The Importance of Electoral and Non-Electoral Representation," *Local Government Studies* 45, no. 2 (2019): 196–218, <https://doi.org/10.1080/03003930.2018.1548351>.

⁷ Diego Fossati, "A Tale of Three Cities: Electoral Accountability in Indonesian Local Politics," *Journal of Contemporary Asia* 48, no. 1 (2018): 23–49, <https://doi.org/10.1080/00472336.2017.1376345>.

⁸ Bambang Suharnoko Sjahrir, Krisztina Kis-Katos, and Günther G. Schulze, "Political Budget Cycles in Indonesia at the District Level," *Economics Letters* 120, no. 2 (2013): 342–45, <https://doi.org/10.1016/j.econlet.2013.05.007>.

money politics⁹, and strong patronage relationships between candidates and voters.¹⁰ Corruption, collusion, and nepotism persist although Indonesia already has an independent institution for dealing with corruption, such as the Corruption Eradication Commission.¹¹ All of these factors make regional head elections expensive and counterproductive to regional development goals.¹²

Along with the advancement of democracy and the national election system, the legal politics of regional head elections shifted to the simultaneous regional head election model. This model is thought to be capable of saving costs incurred when compared to the implementation of elections that take place at different/varying times. By holding regional head elections simultaneously, it is hoped that the state can make savings and minimize the negative effects of money circulation in regional head elections such as fraud and money politics. Nonetheless, the outcomes of post-implementation evaluations for previous simultaneous regional head elections varied. Some stated that the goal of efficiency or savings had not been achieved¹³, Others claimed that simultaneous regional head elections were quite successful in saving election budgets in a number of regions.¹⁴

One of the indicators that will make simultaneous regional head elections more efficient is if the election for governors, regents, and mayors takes place simultaneously in one province or even throughout Indonesia.¹⁵ Only in this manner can budget efficiency be achieved, because each region will pay the election administrator's salary and logistics only once. However, there will be several regional heads whose terms of office will be reduced, making them more susceptible to resistance and polemic. The government, on the other hand, is convinced about holding simultaneous regional head elections across the country in November 2024. This is explicitly stated in the provisions of Article 201, paragraph 8 of Law Number 10 of 2016. As a result, election organizers must hold simultaneous gubernatorial elections in 33 provinces (minus the Special Region of Yogyakarta) and simultaneous regent/mayor elections in 514 regencies/cities across Indonesia on November 24, 2024.

One of the legal consequences of the 2024 simultaneous regional head elections is that several regional heads whose terms have not yet ended will have their terms reduced. Especially for regional heads elected in the 2020 regional head election, whose terms must end

⁹ Firman Noor et al., "The Implementation of Direct Local Election (Pilkada) and Money Politics Tendencies: The Current Indonesian Case," *Politik Indonesia: Indonesian Political Science Review* 6, no. 2 (2021): 227–46, <https://doi.org/10.15294/ipsr.v6i2.31438>.

¹⁰ Laurens Bakker, "Electoral Dynamics in Indonesia: Money Politics, Patronage, and Clientelism at the Grassroots, by Edward Aspinall and Mada Sukmajati (Eds)," *Bijdragen Tot de Taal-, Land- En Volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia* 177, no. 1 (2021): 128–30, <https://doi.org/10.1163/22134379-17701002>.

¹¹ Rizki Ramadani and Moch Andry W W Mamonto, "Independency of the Corruption Eradication Commission of the Republic of Indonesia (KPK RI) in Indicators of Independent Regulatory Agencies (IRAs)," *Substantive Justice International Journal of Law* 1, no. 2 (2018): 82, <https://doi.org/10.33096/substantivejustice.v1i2.18>.

¹² Agus Riwanto, "The Construction of Law Neutrality of State Civil Apparatus in the Simultaneous Local Election in Indonesia," *Yuridika* 34, no. 2 (2019): 237, <https://doi.org/10.20473/ydk.v34i2.7926>.

¹³ Pangsi Syarwi Chaniago, "Evaluasi Pilkada Pelaksanaan Pilkada Serentak Tahun 2015," *Politik Indonesia: Indonesian Political Science Review* 1, no. 2 (2016): 196, <https://doi.org/10.15294/jpi.v1i2.6585>.

¹⁴ Rahmat Muhajir Nugroho and Anom Wahyu Asmorojati, "Simultaneous Local Election in Indonesia: Is It Really More Effective and Efficient?," *Jurnal Media Hukum* 26, no. 2 (2019): 213–22, <https://doi.org/10.18196/jmh.20190135>.

¹⁵ Chaniago, "Evaluasi Pilkada Pelaksanaan Pilkada Serentak Tahun 2015."

in 2024. In practice, regional heads elected in 2020 will serve for approximately 3.5 years or less, depending on the time of their inauguration. In Lampung province, for example, seven regional heads were just elected in 2021, so their term of office is under threat of being reduced by two years.

The reduction in term of office for many regional heads as a result of the simultaneous regional head elections in 2024 is perceived unfavorably. Regional heads who should be able to serve for five years must be forced to step down and be replaced by acting regional heads for an extended period of time. The five-year rule is considered ideal for developing the region through measurable policy programs, but with a shorter term of office, it is clear that it has a significant impact on the development performance initiated by the regional head. The simultaneous local elections in 2024, on the other hand, have implications for the vacancy of regional heads whose terms expire before 2024. In practice, hundreds of regions in Indonesia must be replaced with officials appointed by the government rather than the results of democratic elections in the years 2022 and 2023.

The issues raised above demonstrate that the legal policy of simultaneous national and regional head elections is incoherent. On the one hand, there is a desire to create an efficient and effective electoral system, but this must be accomplished even if it means shortening the term of office for regional heads and creating vacancies in several regions. Such contradictory issues are intriguing to investigate from the standpoint of legal antinomy. In legal theory, antinomy is defined as a paradox, inconsistency, or discrepancy in the logic of a legal substance, which includes a conflict between two or more rules or legal principles pertaining to a specific condition and time.¹⁶

Scholars have frequently applied antinomy theory to the study of legal or political phenomena. One such researcher is Alex Mills, who looked at the conflict between the Public and Private at the Foundations of International Investment Law sector.¹⁷ The control of community involvement rights, which are handled inconsistently by laws and regulations in the environmental sector, was also examined from such a perspective.¹⁸ Antinomy theory is also discussed by Mochtar in the context of Indonesian legislation.¹⁹ meanwhile, Ramadani et al. evaluated the COVID-19 pandemic's regional head election policy and discovered that there was a legal antinomy between the realization of political rights and the right to health.²⁰

According to the author's review of the aforementioned works and a search of numerous additional papers on comparable subjects, no one has addressed the contradictions in the

¹⁶ Luka Burazin, "Antinomies between Implicit Legal Principles: A Solution to the Total-Partial Antinomy." *Courts, Interpretation, and The Rule Of Law*, no. January (2014).

¹⁷ Alex Mills, "Antinomies of Public and Private at the Foundations of International Investment Law and Arbitration," *Journal of International Economic Law* 14, no. 2 (2011): 469–503, <https://doi.org/10.1093/jiel/jgr020>.

¹⁸ Febriansyah Ramadhan and Ilham Dwi Rafiqi, "Antinomy of Community Participation Rights in the Law on the Environmental Sector," *Jurnal Daulat Hukum* 4, no. 3 (2021): 171, <https://doi.org/10.30659/jdh.v4i3.17212>.

¹⁹ Zainal Arifin Mochtar, "Antinomi Dalam Peraturan Perundang-Undangan Di Indonesia," *Hasanuddin Law Review* 1, no. 3 (2015): 316, <https://doi.org/10.20956/halrev.v1n3.112>.

²⁰ Rizki Ramadani and Farah Syah Rezah, "Regional Head Election During COVID-19 Pandemic: The Antinomy in the Government Policies," *Yuridika* 36, no. 1 (2021): 213, <https://doi.org/10.20473/ydk.v36i1.23528>.

policy of simultaneous regional head elections in 2024, especially from an anti-legal standpoint. As a result, this problem presents a huge gap that has not been covered as well as the opportunity for this article's distinct analysis of two key issues: first, What kind of antinomy can result from legal phenomena that are contradictory?; secondly, How and to what extent does the legal antinomy affect the policy for the simultaneous regional head elections in 2024? In light of this, this article's goal is not to directly solve the problems raised by simultaneous local election laws, but rather to first point out the legal antinomies that these policies breach to establish a foundation upon which recommendations can be made.

B. On the “Normative” And “Principle” Antinomy Of Law

A legal norm, whether it takes the form of a regulation, decree, or decision, frequently contains contradictions, paradoxes, or conflicts that affect the policy's meaning, intent, or potential legal implications. In the field of law science, this phenomenon is known as the antinomy of law. By definition, antinomy is a circumstance that is in conflict with itself (a debate between elements), but which cannot be divided because they both depend on each other. Immanuel Kant's concept of the age-old struggle between reason and nature served as the epistemological foundation for the antinomy theory. Then he applied this logic to one of his greatest works, "Critique of Pure Reason," which contains his analysis of the fundamental contradictions.²¹ This contradiction then has a significant impact on the way of legal reasoning, which constantly seeks and maintains an equilibrium point in every situation, oftentimes even in the face of seeming contradiction. The idea of antinomy in law emerged out of this as a "contrast concept," which served as the foundation for conducting an analysis of the norms and principles in a legal system.

If we look at several studies on antinomy in law, we can find at least two types of legal antinomy based on their nature, which the author refers to as “normative antinomy of law” and “principle antinomy of law”. On the first form, antinomy arises from a legal norm that is implemented in a factual situation, but its application conflicts or contradicts with other legal regulations. Contradictions arise in this situation as a result of differences between one rule and another within the same legal sector. A juridical-normative nature, for example, was observed in a study conducted by Febriyanti et al regarding the legal policy on the use of foreign workers in Government Regulation Number 34 of 2021.²² Several provisions in government regulations are considered to ease the way for foreign workers to enter the country, which is in contradiction to a number of labor law regulations that limit the use of foreign workers in order to safeguard the rights of domestic workers. In this instance, there is a conflict between legal rules that preserve local employees' opportunities and those that favor foreign investment and call for convenient access for foreign workers.

²¹ Silvia De Bianchi, “When Series Go in Indefinitum, Ad Infinitum and in Infinitum Concepts of Infinity in Kant’s Antinomy of Pure Reason,” *Synthese* 192, no. 8 (2015): 2395–2412, <https://doi.org/10.1007/s11229-015-0813-2>.

²² Khairina Febriyanti, Irma Suryani, Zainuddin, “Kontradiksi Peraturan Pemerintah Nomor 34 Tahun 2021 Tentang Penggunaan Tenaga Kerja Asing,” *Jurnal Integrasi Ilmu Syari’Ah* 3, no. 3 (2022): 497–509, <https://doi.org/http://dx.doi.org/10.31958/jisrah.v3i3.8395>.

Another example is the simultaneous regional head election that took place in 2021 when the COVID-19 epidemic was occurring. There is a contradiction between the legal rules for conducting regional head elections, which will unavoidably lead in crowds, and the rules for social restrictions that prohibit crowds (physical distance). The conflicting norms ranging from constitutional provisions (political rights vs. the right to health) to organic laws and technical regulations under them such as Minister of Health Regulations vis-a-vis General Election Commission Regulations.²³ This type of antinomy arises due to the nature of the law itself, which is essentially a political product formed through a process of negotiation and consolidation of various interests. This necessitates the existence of legal norms between two or more competing interests, but in practice, the law cannot satisfy all of these interests.

Antinomy in law can occur at the level of legal principles that are more philosophical and fundamental in nature, in addition to the normative context. Antinomy at this level, for example, is reflected in the conflict between the principles of legality, *rechtweigeren* principle, and judicial freedom in the context of legal construction by judges.²⁴ According to the general consensus among jurists, the legality concept serves as a key tenet in the application of criminal law, including as a guide for judges when rendering judgments. A positivistic interpretation of this principle highlights the fact that judges are only serve as *bouche de loi*, or spokespersons for the legal provisions.²⁵ With the exception of the common law tradition, judges are not allowed to interpret clear laws, let alone make analogies.²⁶ This, however, contradicts the principle that a judge may not dismiss a case due to the absence of law governing it. In essence, if the legality principle forbids judges from thinking independently when constructing laws, the *rechtweigeren* principle actually encourages judges to find laws using their own methods, especially if it is relevant to the principle of judge independence.

Antinomy is also represented in the Indonesian Supreme Court's jurisdiction to review statutory regulations under the legislation. When the Supreme Court was granted the authority to conduct judicial review of laws and regulations, the only objection that initially surfaced was that this authority should instead be granted to the Constitutional Court since it is more pertinent to the matter of reviewing legislation (*toetsingrecht*), and the Supreme Court should instead concentrate solely on law enforcement.²⁷ Several issues arose over time, including the duality of reviewing regional regulations by the Government (executive review) and the Supreme Court (judicial review). Later, issues arose when the Supreme Court was required to review regulations resulting from its own legal products, ie the Supreme Court Regulations.²⁸ In

²³ Ramadani and Rezah, "Regional Head Election During COVID-19 Pandemic: The Antinomy in the Government Policies."

²⁴ E. Nurhaini Butarbutar, "Antinomi Dalam Penerapan Asas Legalitas Dalam Proses Penemuan Hukum," *Yustisia Jurnal Hukum* 1, no. 1 (2012): 145–57, <https://doi.org/10.20961/yustisia.v1i1.10614>.

²⁵ Anggita Lumbanraja, Yusriadi Yusriadi, and Shidarta Shidarta, "Legal Interpretation in Judicial Decision Making on Environmental Cases: Judges in the Domination of Civil Law System," 2023, <https://doi.org/10.4108/eai.27-7-2022.2326268>.

²⁶ Adam Rigoni, "Common-Law Judicial Reasoning and Analogy," *Legal Theory* 20, no. 2 (2014): 133–56, <https://doi.org/10.1017/S1352325214000044>.

²⁷ Simon Butt, "Judicial Reasoning and Review in the Indonesian Supreme Court," *Asian Journal of Law and Society* 6, no. August 2018 (2019): 67–97, <https://doi.org/10.1017/als.2018.26>.

²⁸ Safudin Endrik, "Harmonisasi Hukum Dalam Antinomi Hukum (Analisis Terhadap Penerapan Pasal 20 Ayat 2 Huruf B Undang-Undang Republik Indonesia Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman)," *Al-Syakhsyiyah Journal of Law & Family Studies* 2, no. 2 (2020): 202–29.

this context, there is a conflict between the principle of "*ius curia novit*," which demands the Supreme Court proceed to examine the appeal, and the principle of "*nemo iudex in propria causa*," which prohibits judges from handling cases in which they are personally involved.

Principle antinomy of law can also be caused by attempting to realize more than one legal principle at the same time, especially when some of these principles contain objectives that contradict one another. This is reflected in Gustav Radbruch's classic theory of legal ideals (*idee des rechts*), which is conceived on three principles: expediency (*zweckmassigkeit*), justice (*gerechtigkeit*), and legal certainty (*rechtssicherheit*).²⁹ This theory adheres to the dictum that an ideal law has the ability to achieve all those three principles at the same time, even though in reality it sounds rather utopian.

Empirically, we will find it easier to find examples where the three objectives of the law contradict each other in their application compared to situations where they coexist. This is reflected, among other things, in the case of agrarian conflict resolution between community farmer groups and large private companies in OKI Regency regarding land use. In Decision Number 06/Pdt.G/2014/PN.Kag, the judge rejected the counterclaim from the farmers on the grounds that the lawsuit was slanderous. This event shows that formal principles in law can override aspects of justice and expediency.

Principle Antinomy of law is also represented in the competition between the two popular schools of law: the streams of judicial activism vs. self-restraint.³⁰ In the Indonesian context, the conflict between these two theories has become a central topic in the debate over Constitutional Court judges' decisions in examining laws that violate the Constitution. The Constitutional Court, with the authority to overturn laws, is theoretically in the position of a negative legislature³¹, in contrast to the position of the executive and the legislative bodies as a positive legislature. However, throughout its voyage, the Constitutional Court frequently issues decisions that exceed its authority as a negative legislator and makes decisions that formulate new norms in it (positive legislators), which gives the impression of hijacking legislators' authority³². On the one hand, this has resulted in an unfavorable relationship between the judiciary and the legislature, particularly in light of the lack of limits on the MK's powers in examining laws. On the other hand, this type of judicial activism is frequently lauded for attempting to fulfill substantive justice rather than just procedural ones³³. This practice

²⁹ John Kenedi, "Justification Of Pancasila Law State As An Effort To Realize Indonesian Progressive Law" 15, no. 2 (2022): 172–91, <https://doi.org/10.2478/bjlp-2022-001011>.

³⁰ Françoise Tulkens, "Judicial Activism v Judicial Restraint: Practical Experience of This (False) Dilemma at the European Court of Human Rights," *European Convention on Human Rights Law Review* 3, no. 3 (2022): 293–300, <https://doi.org/10.1163/26663236-bja10048>.

³¹ Lidia Oshlyansky and Paul Cairns, "The Challenges Faced by Academia Preparing Students for Industry : W Hat W e Teach and W Hat W e D O" 17, no. 1988 (1904): 203–4.

³² Laurence Claus and Richard Kay, "Constitutional Courts as 'Positive Legislators' in the United States," *American Journal of Comparative Law* 58, no. 1 (2010): 479–504, <https://doi.org/10.5131/ajcl.2009.0018>; Risdiana Izzaty and Xavier Nugraha, "Perwujudan Pemilu Yang Luberjurdil Melalui Validitas Daftar Pemilihan Tetap," *Jurnal Suara Hukum* 1, no. 2 (2019): 155, <https://doi.org/10.26740/jsh.v1n2.p155-171>.

³³ Rahayu Prasetyaningsih, "Judicial Activism in Indonesia: Constitutional Culture by the Constitutional Court," *Jurnal Kajian Ilmu Hukum Dan Syariah* 5, no. 2 (2020): 160–77.

frequently leads to a deadlock in constitutional issues such as filling legal gaps (*rechtsvacuum*) and upholding societal justice ³⁴.

The preceding examples of principled antinomy appear to reveal the inherent nature of laws that may contain contradictions. According to Friedmann, as quoted by Mochtar, this condition is due to the fact that doctrines in the science of law are compiled based on philosophical reasoning, which, while rational, is sometimes relative ³⁵. Furthermore, according to W. Friedmann, legal theory has at least eight antinomies: 1) The individual and the universe; 2) Volunteering and objective knowledge; 3) Reason and intuition; 4) Stability and change; 5) positivism and idealism; 6) collectivism and individualism; 7) democracy and autocracy; 8) internationalism and nationalism.³⁶

The main difference between principle and normative antinomy is that contradictions in the realm of statutory regulations can still be resolved with relevant legal principles and/or theories. For example, conflicts between one law and another can be resolved by harmonization theory. If regulatory conflicts occur between lower and higher regulations, vertical harmonization is carried out based on the principle of *lex superior derogate legi inferior* (higher law overcomes lower law). In this case, legal principles serve to determine the area of application of legal rules in the interpretation or discovery of law, rules that unite rules or legal principles, and rules that maintain/maintain the consistency and coherence of legal rules, among other things.

It is different when antinomy arises in the context of meta-juridical such as principles and theory, when there is currently no practical solution to the issue. Different paradigms for understanding the law itself are typically the root cause of conflicts at the level of legal theory and principles. This paradigm shift is the result of historical arguments between various legal schools, including legal positivism, which emphasizes the consistency of the law, and natural law, which exalts justice as the fundamental of the law.³⁷ Similar things can be said for legal institutions during the postmodernist age, such as critical legal studies movement, whose perspectives are constantly critical and incisive by viewing law not as a value-free order but rather as a complex system of interests and hegemony.³⁸ This most contemporary paradigm has made significant contributions to revealing the illogic of existing laws.

C. Normative And Principle Antinomy In The National Simultaneous Regional Head Election

In Indonesia, a series of simultaneous regional head elections were held in several waves beginning in December 2015 for all regional heads whose terms of office officially ended that

³⁴ Indriati Amarini, "Implementation of Judicial Activism in Judge'S Decision," *Jurnal Hukum Dan Peradilan* 8, no. 1 (2019): 21, <https://doi.org/10.25216/jhp.8.1.2019.21-38>.

³⁵ Mochtar, "Antinomi Dalam Peraturan Perundang-Undangan Di Indonesia."

³⁶ Ramadani and Rezah, "Regional Head Election During COVID-19 Pandemic: The Antinomy in the Government Policies."

³⁷ Brian Flanagan and Ivar R. Hannikainen, "The Folk Concept of Law: Law Is Intrinsically Moral," *Australasian Journal of Philosophy* 100, no. 1 (2022): 165–79, <https://doi.org/10.1080/00048402.2020.1833953>.

³⁸ Juhana Salojärvi, "A Counter-Culture of Law: Jurisprudential Change and the Intellectual Origins of the Critical Legal Studies Movement," *American Journal of Legal History* 59, no. 4 (2019): 409–43, <https://doi.org/10.1093/ajlh/njz022>.

year. However, only 9 out of 33 provinces (elections for governors), 30 cities (elections for mayors), and 224 districts (regent election) with a total of 224 regional heads participated in the 2015 simultaneous local elections. In 2017, 7 provinces, 18 cities, and 76 regencies held simultaneous regional elections for regional heads whose terms of office ended during that period. The third round of regional elections should have been held in September 2020, before the arrival of the COVID-19 pandemic. Despite being postponed until 2021, regional elections were finally held in December 2020, despite a pandemic situation in 270 regions (9 provinces, 224 districts, and 37 Cities). In terms of implementation, simultaneous regional elections are still partial, as evidenced by the time differences at the beginning and end of the period of regional government in various regions of Indonesia.

Unlike the previous simultaneous regional head election model, the 2024 simultaneous regional head election is scheduled to be held simultaneously in all regions in Indonesia by involving all regions of Indonesia, namely 34 provinces and 514 districts and cities. The timing is also very specific, namely November 24, 2024, to ensure that elections are held on the same day nationally. Meanwhile, the simultaneous regional elections were also accompanied by simultaneous general elections to elect a president and vice president, members of the People's Representative Council (DPR) of the Republic of Indonesia, the Regional Representative Council (DPD) of the Republic of Indonesia, as well as provincial and district/city regional people's representative councils (DPRD) on February 14, 2024. Thus, this will be the first and largest election in Indonesia. Because previously, elections and local elections have never been held in the same year simultaneously.

Legal politics, which serves as a basic justification for this policy, can be broken down into two categories: first, a desire to create political stability; and second, the need to minimize election costs. In the first, simultaneous planning of local elections and general elections aims to encourage the development of political necessary conditions, which will have an impact on the stability of government in general. The General Election Commission, the authority in charge of administering elections, expressed this opinion. Elections, according to Hasyim Asy'ari, Head of the General Elections Commission, are primarily intended to form a government at the national and regional levels by filling out vacancies in each cabinet. Hence, synchronizing elections with regional elections is thought to result in a stable government because it has institutionalized time together by having both the central government and regional governments begin their 5-year terms at the identical time.

The relevance of the argument that simultaneous local elections are able to create better governance stability conceptually is still questionable. This is because the stability of government is actually the expected effect of the simultaneous design of general elections (executive and legislative elections).³⁹ The essence of this election design is to hold legislative and executive elections on the same day so that a congruent government can be established, ie the election of executive officials (President and Vice President) who have the support of a legislative majority. This governance pattern will have a significant effect on governmental

³⁹ Moh. Ilham A. Hamudy and M. Saidi Rifki, "Strengthening the Multi-Party Presidential Government in Indonesia," *Politik Indonesia: Indonesian Political Science Review* 4, no. 2 (2019): 208–32, <https://doi.org/10.15294/ipsr.v4i2.18447>.

stability.⁴⁰ This is the basis for the claim that simultaneous elections can strengthen the presidential system.⁴¹ In other words, the theoretical stability of government is an expected effect of simultaneous presidential and legislative elections and not simultaneous regional head elections.

Even if the rationalization of simultaneous local elections in 2024 to create government stability is accepted, it will result in contradictions. Theoretically, simultaneous regional elections are held to create stability in government by allowing officials to begin their terms of office at the same time, but we must also remember that the 2024 simultaneous local election policy has generated vacancies in many regions. According to the Ministry of Home Affairs, due to vacancies before the 2024 elections, more than 200 regional heads will be filled by temporary officials. In 2022, temporary officials will fill 101 regional heads, including 76 regents, 18 mayors, and 7 governors. No fewer than 171 regional heads from the 2018 regional elections will also be leaving office in 2023. Details on 38 mayors, 115 regents, and 18 governors are included. Based on this, the first antinomy in the simultaneous local election policy is the conflict between the objective of simultaneous regional elections to create government stability and the instability caused by many vacancies in the regional head position.

Even though Article 201 paragraph (9) of Law number 10 of 2016 allows for the appointment of acting regional heads whose terms end in 2022 and 2023, this does not come without consequences. The appointment of officials to replace regional heads has at least three consequences: 1) administrative consequences; 2) political consequences; and 3) sociological consequences. From an administrative standpoint, the presence of an official is intended to allow government administration to continue, but this does not imply that it will run as smoothly as it should. Even though they have an equal legal basis, the acting regional head's authority is not identical to that of the definitive regional head. There are several restrictions on what officials can and cannot do. Some of these things are quite strategic, with the potential to impede government operations. These restrictions include the authority to appoint, transfer, and dismiss officials within their regional government, among other things. This is stated in the Head of the National Civil Service Agency Letter Number K.26-30 IV.100-2|99. Concerning the Explanation of the Acting Regional Head's Personnel Authority. It was explained that the Acting Regional Head is not authorized to make decisions with legal consequences (civil effect) on staffing aspects such as appointments, transfers, and dismissals in/from civil apparatus positions unless written approval from the Minister of Home Affairs is obtained.

The above limitation is also in line with the provisions of Article 14 paragraph (7) of Law Number 30 of 2014 concerning Government Administration, that Government Agencies and/or Officials who obtain authority through mandates are not authorized to make decisions and/or actions that are strategic that impact changes in status law on the aspects of organization, staffing, and budget allocation. As a result, officials also cannot prepare the regional medium-

⁴⁰ Rizki Bagus Prasetio and Febri Sianipar, "The Relevance of the Application of the Presidential Threshold and the Implementation of Simultaneous Elections in Indonesia," *Jurnal Penelitian Hukum De Jure* 21, no. 2 (2021): 267, <https://doi.org/10.30641/dejure.2021.v21.267-284>.

⁴¹ Iding Rosyidin, "The Simultaneous Election in Indonesia: Problems and Solution," no. January (2018), <https://doi.org/10.2991/icpsps-17.2018.43>.

term development plan (RPJMD) documents as stipulated in regional regulations. This is because the RPJMD contains an elaboration of the vision and mission of the elected regional head, whose validity period is five years or concurrent with the term of office of the regional head concerned. Meanwhile, officials are not authorized to set their vision and mission. In practice, this will hinder regional expenditure activities and regional financial management, which must refer to the RPJMD document.

In terms of political implications, the placement of acting regional heads or temporary officials is very vulnerable to introducing certain political interests. There is even speculation about the potential for re-centralization, with many officials elected and appointed by the central government. Including the assumption of non-neutrality of officials and the discourse on the appointment of members of the Indonesian National Police and the Indonesian National Armed Forces to fill the vacant regional head positions. There is a case in West Bandung Regency, where officials make the vision and mission, and even the Long Term Development Plan (RPJP), the definitive regional plan. The RPJP is then haphazardly outlined in a Regent's Regulation, which should be in the form of a regional regulation. Likewise in Pangandaran Regency, where the executor of the task of the regent is intense in managing the bureaucracy and rotating positions that are not within his authority.⁴²

Administrative and political implications will have an impact on serving the needs of the community in the regions (social implications). Obstacles to regional spending will undoubtedly have an impact on meeting people's needs.⁴³ Meanwhile, officials who are full of political interests can trigger public discontent and distrust, so they run the risk of public disobedience and even horizontal conflict. Not to mention the potential for horizontal conflict in the pre-and post-election period. Conflict escalation could have increased massively if it happened simultaneously in various regions. This further reinforces the concern that the simultaneous regional head elections, which are intended to support government stability, will have an impact on government disruption, which will more or less interfere with preparations for holding the simultaneous elections and the 2024 simultaneous regional elections.

Table 1: *Antinomy in 2024 Regional Head Election*

No.	Type of Antinomy	Explanation
1	Normative	Simultaneous regional head elections based on Article 201 paragraph (8) of the Regional Head Election Law aim to create government stability, but the appointment of temporary officials acting as regional heads in various regions based on Article 201 paragraph (9) has the potential to cause instability.

⁴² Nandang Alamsah Deliarnoor, "Problematika Pelaksana Tugas (Plt) Dalam Masa Transisi Pemerintahan (Pra Dan Pasca Pilkada Serentak)," *CosmoGov* 1, no. 2 (2017): 322, <https://doi.org/10.24198/cosmogov.v1i2.11841>.

⁴³ Ferensky Regina Sandjaja, Ferinda Nafisa, and Ita Nurmanti Manurung, "The Impact of Fiscal Decentralization on Welfare in Selected Provinces in Indonesia," *Jurnal Bina Praja* 12, no. 1 (2020): 21–31, <https://doi.org/10.21787/jbp.12.2020.21-31>.

2	Principled	Simultaneous local elections based on the Regional Head Election Law are aimed at budget efficiency (legal utility/purposiveness) but shorten the term of office of the regional head guaranteed by the law itself (legal certainty).
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Source: Analysed from the primary source.

Table 1 shows that in addition to the paradox between the stability purpose and the instability impact of the 2024 simultaneous regional elections, there is also an antinomy between efforts to increase efficiency or save the budget and the shortening of regional heads terms of office. As mentioned earlier, one of the main objectives of designing simultaneous elections is to maximize state budget efficiency. This was stated by DPR Commission II member Luqman Hakim: The government supports the simultaneous regional election policy so that it can carry out efficiency and refocus part of the election budget to handle the impact of the COVID-19 pandemic, such as increasing poverty and unemployment. This shows that the purposefulness aspect is the main consideration in the legal politics of the 2024 simultaneous local elections. However, this is contradictory to the reduction in the term of office of regional heads who have not yet finished their period but are required to finish and take part in the upcoming 2024 elections. Meanwhile, the law guarantees regional heads five years of service. In other words, there has been an antinomy between the principles of expediency (efficiency efforts) and legal certainty (five years of service).

Indonesian laws and regulations guarantee a fixed term of office for regional heads. This is explicitly stated in Article 162 paragraphs (1) and (2) of Law Number 10 of 2016 and Article 60 of Law Number 23 of 2014 concerning regional government, which state that the term of office for regional heads is 5 years from the date of their inauguration. However, with the agreement on the simultaneous regional elections in November 2024, as stated in Law 10/2016, regional heads who start their terms of office in 2020 and 2021 will experience a 1-2 year cut. This gave rise to "ended" and "finished" terms of office. For regional heads appointed in 2020 and 2021, their terms of office will not end automatically for up to five years but will be finished or considered completed in 2024 for the next election. This condition contradicts the provisions of the regional head election Law itself and the regional government law, which guarantees the political rights of every elected regional head to serve and exercise their authority for a full five years.

This issue was once submitted to the Constitutional Court by the pair of regional heads elected in the 2020 elections which were registered in Case Number 18/PUU-XX/2022.⁴⁴ The Court in its decision rejected the applicant's application in its entirety. In its legal considerations, the court stated that cutting the term of office of regional heads is not against the concept of human rights. As a political right, the tenure of a regional head is categorized as a derogable right and is limited based on the reasons set out in Article 28J paragraph (2) of the 1945 Constitution, which include: (a) being carried out by law; (b) guaranteeing recognition and respect for the

⁴⁴ Emmanuel Ariananto et al., "Reflections and Expectations of Democracy in The Implementation of Regional Autonomy : Long - Term Potential for Appointment of Acting Regional Heads," *PLEDOI (Jurnal Hukum Dan Keadilan)* 2, no. 1 (2023): 50–68, <https://doi.org/10.56721/pledoi.v2i1.184>.

rights and freedoms of others; and (c) meeting just demands following considerations of morality, religious values, security, and public order in a democratic society. However, this decision still contains ambiguity. If the term of office of a regional head guaranteed by law is a political right that can be limited or reduced, then on what grounds can the government make this reduction? The court only bases its reasoning on the general provision in Article 28J of the 1945 Constitution without explaining the causality logic and relevance of the legal limitation (letters a, b, and c of Article 28J) on the issue of reducing the regional heads' fixed term of office.

The above case seems to remind us of the classic antinomy between the purpose of law for benefit versus legal certainty. As previously stated by Immanuel Kant and quoted by van Apeldoorn, if the law is implemented as it says, then justice will be increasingly difficult to achieve (*summum ius summa iniuria*). On the other hand, if the law is implemented under certain circumstances, it is felt that it eliminates more and more uncertainty. If the government is consistent with the provisions of Article 162 of Law 10/2016 and Article 60 of Law 23/2014 regarding terms of office for regional heads, simultaneous local elections cannot be carried out nationally, and therefore the goal of budget efficiency will not be optimal, just like the regional elections in the previous period. However, if the consistent government is to hold regional elections simultaneously nationally in 2024, it will be impossible not to violate the provisions of the law and the political rights of democratically elected regional heads.

Based on the analysis above, shows that the phenomenon of simultaneous regional head elections in Indonesia has not been able to realize the expected benefits of simultaneous elections. In the case of Indonesia, it shows that the advantages of simultaneous regional head elections have not been able to realize budget efficiency, both in the previous period and the 2024 period. The same thing also applies in the context of election rifts and political stability. Where simultaneous regional head elections created many vacancies for regional heads in some regions, which had to be covered by the appointment of temporary officials with minimal legitimacy.

One example of simultaneous regional head elections can be found in the elections of governors and mayors in Japan. These elections are known as "Simultaneous Prefectural Elections" (*Todōfuken Shichō Issai Senkyo*) and are held periodically to elect prefectural governors and mayors in major cities across Japan.⁴⁵ However, the problem of antinomy in simultaneous regional head elections seems to be a unique problem faced by Indonesia. The various issues discussed such as reducing the term of office and replacement officials unilaterally appointment were not found in other countries that also carried out simultaneous elections, such as Japan, South Korea, and Spain, where the time gap between the two electoral regimes was only 28 days apart.⁴⁶ This is because such problems only occur in countries that are still in a transitional period from a gradual election model to a national simultaneous election model such as Indonesia. **However, the findings of this study reveal intriguing and relevant aspects that**

⁴⁵ Toru Yoshida, "Populism 'Made in Japan': A New Species?," *Asian Journal of Comparative Politics* 5, no. 3 (2020): 288–99, <https://doi.org/10.1177/2057891119844608>.

⁴⁶ Laura Cabeza and Matthias Scantamburlo, "Dual Voting and Second-Order Effects in the Quasi-Simultaneous 2019 Spanish Regional and National Elections," *Revista Espanola de Ciencia Politica* 55 (2021): 13–35, <https://doi.org/10.21308/recp.55.01>.

other scholars should consider before adopting simultaneous regional head elections, particularly in countries with a large number of territorial entities. Although simultaneous elections are widely regarded as having several advantages, in a country with a large number of regions, such as Indonesia, they will leave many problematic issues, such as the risk of escalating conflicts that occur concurrently, making them difficult to control and resulting in a very heavy workload that is burdensome for officials and the election committee. The controversy over regional heads' reduced terms of office and the central government's "biased" appointment of replacement officials is a recent issue in Indonesia, but it serves as a warning to other countries that want to switch (transition) from a local electoral system gradually to a local electoral system simultaneously.

D. Conclusion

The National Simultaneous Regional Head Election Policy, which will be held in November 2024, is an attempt to improve on the previous period's design of simultaneous elections. It is hoped that national synchronization will result in government stability and budget efficiency. However, in terms of the antinomy of law, policy and legal politics are not without their contradictions and paradoxes, both normative and principled. The notion of simultaneous local elections for political stability has the possibility of causing more social instability, due to the issue of vacancies in various regions that must be filled with temporary officials appointed by the central government, among other things. Likewise, the value of the benefits from the 2024 simultaneous regional head elections is in the form of budget efficiency, which is contrary to the aspect of legal certainty gained by cutting the term of office of regional heads as guaranteed by law. All of these antinomies should be understood and thought about by all stakeholder groups and policymakers. In principle, the law cannot satisfy all parties, but the public interest must remain the main benchmark for any legal policy made. This is so that the law can be at least as problematic as possible and can be a solution for all problems (*Lex Semper dabit remedium*). Based on this, we propose a number of conditions for holding national simultaneous regional head elections in 2024: first, the simultaneous regional head elections in 2024 should only include regional heads who have completed their term of office or have served for five years, beginning with the inauguration and ending before the election date. Thus, polemics about violations of constitutional rights related to tenure can be avoided, and regional heads can carry out their duties thoroughly and uninterruptedly; second, regional heads whose terms of office expire before the implementation of the 2024 regional head elections can be temporarily replaced by the regional secretary in coordination with the Minister of Home Affairs. This is in order to avoid conflicts of interest between the central and the regions entities, as well as so that local government can still function legitimately. On the other hand, the government also does not need to bother filling vacancies in various regions and reaping distrust from the local community.

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Legal Documents

- Law Number 10 Year 2016 concerning the Second Amendment to Law Number 1 Year 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 Year 2014 concerning the Election of Governors, Regents and Mayors to Become Laws
- Law Number 23 Year 2014 concerning the Local Government
- Law Number 30 Year 2014 concerning the Government Administration
- Head of the National Civil Service Agency Letter Number K.26-30 IV.100-2|99. Concerning the Explanation of the Acting Regional Head's Personnel Authority

2. Peer Review Process



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We have concluded that this article will be reviewed by the professional reviewers. Your submission fits well in the cross-border legal research scope. Our aims and scope want to focus on cross-border legal research with a clear comparative focus, which is also of interest to the international public.
Hopefully, the journal's reviewers will be responded soon to give comments and suggestions well (approximately 3 (three) up to 6 (six) months).

Thank you

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Tue, Sep 24, 2024, 2:01 PM ☆ ↶ ⋮

Dear,
Mr. Rizki Ramadani

Your manuscript has been subjected to a double-blind review process by the selected reviewer who is expert in the related fields.
Enclosed please find the reports from these reviewers.

Based on the **reviewers'** recommendations, I am delighted to inform you that your manuscript has been **ACCEPTED WITH REVISIONS** for the Padjadjaran Journal of Law.

Please note that it is important for you to revise the manuscript according to the reviewers' comments and guidelines. Use the TRACK CHANGES feature in MS Word to make your revisions, and only REVISED your manuscript in the attached name file. **[Rizki - Revision]**

Once you have revised the manuscript, please reply to this email by attaching your:

- 1) revise the manuscript (**with TRACK CHANGES**) and
- 2) fill out the revision form that outlines the revisions you have made in regards to the reviewers' comments and guidelines.

We hope to receive your revision submission, at the latest on **3 October 2024**.

Date : 24 September 2024
No. : 586/PJIH/IX/2024
About : Reviewer Note

Dear,

Mr. Rizki Ramadani

Your article has been subjected to our double-blind review process. In this regard, the editorial team decides to **ACCEPT THE ARTICLE WITH REVISION**. Please find the reviewers' comments below and revise your article to conform to the suggestion.

1. Reviewers' Suggestions on the Article's Title and Abstract

- **The authors need to adjust the title to a brief and concise one representing the whole article's content.** Based on the reviewer's comments, the title does not represent the article's content. The title mainly focuses on the simultaneous regional head elections in 2024. However, the article's content explains more about the appointment of the acting head of local government and its term of service period (this article interchangeably uses the term "tenure"). Thus, the title and essential content formulation need to be more synchronized.
- Based on the reviewer's comments, the phrase "The Election of Contradictions" used in the article remains unclear. Furthermore, the use of contradiction is redundant with the term "antinomy".
- Based on the reviewer's comments, the author could consider using "acting head of local government" rather than "temporary officials". The reviewer also suggests reverting to some references, as follows:
 - 1) <https://fia.ui.ac.id/en/legitimasi-penjabat-kepala-daerah>/<https://www.kppod.org/blogs/view?id=14>
 - 2) <https://www.kompas.id/baca/english/2022/04/28/acting-regional-heads>
 - 3) <https://en.antaranews.com/news/204469/acting-regional-heads-should-not-weaken-local-governance-academic>

The reviewer notes that "temporary officials" is too broad and does not specifically refer to pejabat daerah. The term "temporary officials" may include other officials, such as Pelaksana Tugas (PLT) and Pelaksana Harian (PLH).

- Based on the reviewer's comments, the author needs to explain the research problem in the abstract section further.

- Based on the reviewer's comments, the use of "regional head" of government gives a narrow sense that only refers to the governor (provincial level). Instead, the author could consider using the "head of local government" to cover the provincial and municipal levels. Unless the background provides a definition of "regional head of government."
- Based on the reviewer's comments on "*there were two types of antinomies under the policy of simultaneous regional elections namely normative and principle*" sentence, the author needs to explain further the findings. Specifically, the reviewer commented on whether the two findings are normative or practical findings, which aspects are applied to describe the antinomy, and which provisions to examine each other.
- Based on the reviewer's comments, the author needs to reorder the keywords of the article into alphabetical order.

2. Reviewers' Suggestions on the Article's Discussion

- **Based on the reviewer's comments in the introduction section, the authors must clarify and** explain the arguments further, as commented on in the MB 2 Peer Review Manuscript. The author could refer to the number of comments as follows:
 - 1) The author has to clarify the analysis of "Regional heads who should be able to serve for five years should be forced to step down and be replaced by acting regional heads for an extended period" sentences. The reviewer suggests that the author clarify the analysis, as the acting head of local government is only appointed when the previous governors' or mayors' terms are terminated. While waiting for the agenda in November 2024, the head of local government is appointed and ruled by the acting one. The reviewer also suggests that if the author has a counter-argument and will keep the statement, please provide the sample in one or two places, as mentioned in **Comments A9 on the MB 2 Peer Review Manuscript.**
 - 2) The reviewer suggests that the author has to prove the mentioned impacts in "However, a shorter term of office significantly impacts the development performance initiated by the regional head" sentence, as noted in **Comments A10 on the MB 2 Peer Review Manuscript.**
 - 3) The reviewer commented that **it is less recommended** to claim "no article" just because the previous studies barely used the term "antinomy", as mentioned in Comments A11 & A12R11 on the MB 2 Peer Review Manuscript. The reviewer also added some reference recommendations from

several articles that criticize and question the provisions underpinning the simultaneous/concurrent local election that the author could consider to acknowledge some of the references.

- 4) The reviewer suggests to embark the sentence “Simultaneous general elections to elect a president and vice president, members of the People's Representative Council (DPR) of Indonesia, the Regional Representative Council (DPD) of Indonesia, as well as provincial and district/city regional people's representative councils (DPRD) were scheduled for February 14, 2024” with a connecting word to indicate that the sentence is coherent with the previous sentence, **as mentioned on comments A14 MB 2 Peer Review Manuscript.**
- 5) The reviewers commented that the author must provide the reference in the sentence, “According to the Ministry of Home Affairs, more than 200 regional heads would be filled by temporary officials due to vacancies before the 2024 elections. In 2022, temporary officials filled 101 regional heads including 76 regents, 18 mayors, and 7 governors. No fewer than 171 heads from the 2018 regional elections will also leave office in 2023. Details on 38 mayors, 115 regents, and 18 governors were included in this figure”, **as mentioned in comments A15 MB 2 Peer Review Manuscript**
- 6) The reviewer suggests that the author rephrase the use of “not”, **as mentioned in comments A16, A17, and A30 MB 2 Peer Review Manuscript.**
- 7) The reviewer suggests that the author use official words in the sentence, “Despite having an equal legal basis, the acting regional head's authority was not identical to the definitive leader”. The reviewer suggests that the author could consider using the words authorized, permitted, unauthorized, or prohibited, **as mentioned in comments A18 MB 2 Peer Review Manuscript.**
- 8) The reviewer notes that the explanation the author suggests in “Furthermore, there were several restrictions on what officials could and could not do” sentence was confusing. The reviewer commented what is the direct relevance of criticism concerning the acting head of local government to the focus on the simultaneous local election?. The reviewer note that this is a distinct topic, as the acting of head of local government is provided not only due to november 2024 election, but also due to "kemenangan kolom kosong" and in the condition that Kepala Daerah dan Wakil Kepala Daerah berhalangan tetap berkaitan dengan menjadi tersangka kasus pidana. Eg.

Kota Bandung case. The author could consider further explaining the comments as mentioned in comments A19 MB 2 Peer Review Manuscript.

- 9) The reviewer asked why the author suggested the sociological consequences of the official's appointment. **The author could refer to the comments A19 MB 2 Peer Review Manuscript.**
- 10) The reviewer suggests providing data to support the argument on "The potential for horizontal conflict in the pre-and post-election periods was significant" sentence, **as mentioned in comments A21 MB 2 Peer Review Manuscript.**
- 11) The reviewer also notes the basis of the prediction on the "Conflict escalation could have increased massively when it happened simultaneously in various regions" sentence, **as mentioned in comments A22 MB 2 Peer Review Manuscript.** The author could further explain the argument and any references within.
- 12) In Table 1: Antinomy in 2024 Regional Head Elections, the reviewer mainly suggests that the author provide data, principles, and theory on the concept that the author indicates in Table 1. **Please refer to comments A23 & A24 MB 2 Peer Review Manuscript for further comments.**
- 13) The reviewer notes that the explanation of principle in Table 1 that can be seen by "Simultaneous local elections based on the Regional Head Elections Law were aimed at budget efficiency (legal utility/purposiveness) but shortened the term of office of the regional head guaranteed by the law (legal certainty). " sentence is confusing because the statement blend the budget contradict the term of service. The reviewer suggests that the author justify that the aspects are "apple to apple". **Please refer to comments A23 & A24 MB 2 Peer Review Manuscript for further comments.**
- 14) The reviewer also notes that the primary data sources used for Table 1 still need to be clarified. The author has to define which primary sources are used for the table. **For further comments, please refer to comments A26 MB 2 Peer Review Manuscript**
- 15) The reviewer also notes that the last paragraph of section C. *Normative and Principle Antinomy in the National Simultaneous Regional Head Elections* needs to be shorter and clearer to indicate the main explanation ideas. The author should explain the main idea clearly and concisely. **For further comments, please refer to comments A27 MB 2 Peer Review Manuscript**

16) The author must also clarify and further analyze the comparative sample discussion in the last paragraph of section C. *Normative and Principle Antinomy in the National Simultaneous Regional Head Elections*. **Please refer to comments A28 MB 2 Peer Review Manuscript for further comments.**

- The reviewer also commented **that in the introduction section, the author is recommended to justify that the issue anchoring simultaneous local election remains updated and sustainable.** This is due to the Pilkada Law 2016 attempts to address the transition of local leadership until November 2024.
- **The reviewer also** commented that the author has not included the Constitutional Court decisions Number 143/PUU-XXI/2023 and 27/PUU-XXII/2024, which seek to prevent constitutional losses for regional heads whose terms of office end before 2024 and who have not yet completed one term of office. Based on these comments, the author could consider including the Constitutional Court decisions Number 143/PUU-XXI/2023 and 27/PUU-XXII/2024 in the article content.
- The reviewer also recommended that the discussion of each topic be included in the discussion sub-chapters so that it is more straightforward and sharper and focuses on the subject or legal issue being discussed.
- The reviewer also commented that the author needs to explain theoretically regarding the appointment of officials during the transition period as an implication of vacant positions, which clashes (an antinomy) with the theory of filling public positions, which must be done through elections. Some Acting Appointments do cause problems and have not been studied concretely, for example, in which regions Acting Appointments are problematic, including the need to add data on Acting Regional Heads who have outstanding achievements as an antinomy to the weaknesses of Acting Appointments. The reviewer also commented that the author needs to present data regarding the budget efficiency to be achieved in the simultaneous regional head elections because the opposite is accurate so that it can be concluded whether the goal was realized. Regarding the synchronization of national policies, the article does not yet explain the period for preparing the RPJP and RPJMN as a form of antinomy or not with simultaneous regional elections.
- The reviewer also suggests that the author could rephrase the sentence "In conclusion, the national simultaneous regional head elections policy scheduled for November 2024 aimed to improve on the previous design of simultaneous elections" into *"The national simultaneous regional head elections policy scheduled for November 2024 is construed to improve on the previous design of simultaneous*

elections." Please refer to comments A29 MB 2 Peer Review Manuscript for further comments.

- The reviewer also suggests that the conclusion section should include the key points to respond to the expectations in the background, as follows:
 - 1) The author must suggest what kind of antinomy can originate from contradictory legal phenomena. and;
 - 2) The author must suggest how and to what extent the legal antinomy affects the policy for the simultaneous regional head elections in 2024?

The conclusion needs to indicate which type of antinomy is mainly reflected in the contradiction of discussed legal norms. The conclusion is also less fulfilling regarding the question of the impact of the respected antinomy on the governance of the simultaneous regional head elections in 2024, It can be due to the absence of a statement regarding the scope of aspects of the simultaneous regional head elections in 2024 to be examined.

- The reviewer also suggests that the author must ensure the arguments' validity in the conclusion section. The reviewer notes that the validity of the conclusion must be tested again because the widespread appointment of acting regional heads, along with other issues discussed, only occurred during the transition period for the 2024 simultaneous regional head elections. Hence, their relevance needs to be further studied in 2029.

3. Others

- **Please refer to the attached document**, which contains reviewers' suggestions and comments.
- The author is required to provide the references used within the article in footnote and/or reference format according to the Chicago Style 17th edition (add DOI and website address). **Specifically, the author needs to adjust the footnote format by giving specific pages used as references.**
- The authors must adjust the manuscript per the PJH Writing Guidelines, which can be seen on the following link: <https://jurnal.unpad.ac.id/pjih/about/submissions#authorGuidelines>. **Mainly, the author needs to 10 (ten) books with publications by 10 (ten) years back.**
- The manuscript should be written in English with approximately 7000-9000 words, English with approximately 7000-9000 words (including the bibliography), on an A4 size paper, with the Calibri font, 11 pt size, and a single space. The first paragraph in each section is not indented, and the second and subsequent paragraphs should be

indented by 0.6 cm. The margin for each side (right, left, up, down) is 3 cm. Specifically, the author is required to adjust the total words and indentation of the manuscript according to PJIH Writing Guidelines, which can be seen on the following link: <https://jurnal.unpad.ac.id/pjih/about/submissions#authorGuidelines>.

4. Editorial's Suggestions

- The author must adjust the format of the manuscript into 3 (three) sections, namely A. Introduction; B. (Title of Discussion); and C. Conclusion. Specifically, the author needs to adjust the discussion of the articles into numbering and move the conclusion section into part C. Please refer to PJIH Writing Guidelines, which can be seen at the following link: <https://jurnal.unpad.ac.id/pjih/about/submissions#authorGuidelines>.
- For the use of shortened notes, the authors need to add a specific page number used as the reference. The author could visit to: <https://jurnal.unpad.ac.id/pjih/about/submissions#authorGuidelines>, explicitly referring to the Chicago manual style.

Thank you for considering PADJADJARAN Jurnal Ilmu Hukum (Journal of Law) to publish your research. We look forward to receiving your revised article by **3 October 2024** or sooner.

24 September 2024,

Chief Editor



Dr. Irawati Handayani, S.H., LL.M.

The Election of Contradictions: Analyzing the 2024 Simultaneous Regional Head Elections in Indonesia from an Antinomy Perspective

Abstract

Contrary to the previous conventional models of regional head elections conducted sequentially, the 2024 simultaneous regional head elections will be held on the same day nationwide. This plan presents several issues including the appointment of temporary officials due to numerous vacancies in regional head positions and the shortening of the terms for various definitive leaders. Therefore, this study aimed to examine the contradictions in the 2024 simultaneous regional head election policies by using the antinomy perspective. Based on normative analysis of secondary data using statutory and conceptual methods, the study found that there were two types of antinomies under the policy of simultaneous regional elections namely normative and principle. In this context, the 2024 simultaneous regional head elections aimed to create government stability and budget efficiency. However, this objective of political stability possessed a greater risk of causing instability. The benefit from budget efficiency contradicted legal certainty principles due to the shortening of the regional head's fixed term of office which was considered a political right guaranteed by law. Based on this evidence, the analysis further provided more understanding of the transition challenges from conventional to simultaneous local elections.

Keywords: Regional Head Elections, Antinomy of Law, Contradiction.

A. Introduction

Currently, elections are the main benchmark for the democratic practices of a country¹ as experts claim that holding fair elections can raise citizens' satisfaction with the system.² This is supportive because people can vote based on political preferences and support the selected candidate until victory. In this regard, elections have become a catalyst for the realization of the representative function of democracy.³ Therefore, direct elections (one person, one vote) are more widely accepted and favored than indirect. Correlating with Robert Dahl's assertion that democratic practices such as voting are more legitimate than others. This legitimacy ensures that everyone can voice ideas and receive equal treatment under the law.⁴

In Indonesia, the path toward democracy has become inextricably connected to elections. The rise of Indonesian democracy began with a constitutional amendment that allowed for direct general elections, even though democracy was usurped by the Old Order regime and transferred to the New Order regime. This transfer prompted power to be used in an oppressive and heavily centralized manner. General elections are held directly, publicly, voluntarily, in strict confidence, honestly, and fairly every five years, as specified in Article 22E, Paragraph 1, of the 1945 Constitution. Over time, elections for regional heads of government began to take place alongside those for the president and members of the legislature. Elections for regional leaders are held following the mandate of the constitution and statutory requirements to democratically elect governors at the provincial level as well as regents/mayors at the district and city levels. The majority of parties perceive this as evidence of the localization of democracy. Currently, the government holds direct elections at both the national and regional levels regularly.

Commented [A1]: The title is mainly focused on the the simultaneous regional head elections in 2024, but the content explained more on the 1) appointment of the acting head of local government; and 2) its term of service period (this article interchangeably uses "tenure"). Thus between the formulation of title and the essential content is less synchronized.

Commented [A2]: What is the problem statement to motivate this research?

Commented [A3]: Why using terms "temporary officials" instead of "acting head of local government"? it is considerable to take revert to:
<https://fia.ui.ac.id/en/legitimasi-penjabat-kepala-daerah/>

<https://www.kppod.org/blogs/view?id=14>

<https://www.kompas.id/baca/english/2022/04/28/acting-regional-heads>

<https://en.antaranews.com/news/204469/acting-regional-heads-should-not-weaken-local-governance-academic>

temporary officials is too broad as it may include Plt, Plh, not only Penjabat Kepala Daerah.

Commented [A4]: aims?

Commented [A5]: Using regional head of government will be trapped in a narrow sense only to governor (provincial level), but head of local government will cover provincial and municipal level. Unless, the background provides definition of "regional head of government"

Commented [A6]: Are the two findings normative or practical findings?

which aspects are applied to describe the antinomy? Is it antinomy of law? then which provisions to examine each other?

Commented [A7]: What is the sustainable novelty remaining? Because the current need for appointing the acting head of local government is enacted to moderate and address the loopholes while waiting for the simultaneous local election November 2024 (as the author refers to article 201 of Pilkada Law 2016). the further simultaneous election period will assumably determine the definitive head of local government.

Commented [A8]: Why using pass tense?

¹ Toby S. James and Sead Alihodzic, "When Is It Democratic to Postpone an Election? Elections during Natural Disasters, Covid-19, and Emergency Situations," *Election Law Journal: Rules, Politics, and Policy* 19, no. 3 (2020): 344–62, <https://doi.org/10.1089/elj.2020.0642>.

² André Blais, Alexandre Morin-Chassé, and Shane P. Singh, "Election Outcomes, Legislative Representation, and Satisfaction with Democracy," *Party Politics* 23, no. 2 (2017): 85–95, <https://doi.org/10.1177/1354068815583200>.

³ Christopher Warshaw, "Local Elections and Representation in the United States," *Annual Review of Political Science* 22 (2019): 461–79, <https://doi.org/10.1146/annurev-polisci-050317-071108>.

⁴ Mikael Persson, Peter Esaiasson, and Mikael Gilljam, "The Effects of Direct Voting and Deliberation on Legitimacy Beliefs: An Experimental Study of Small Group Decision-Making," *European Political Science Review* 5, no. 3 (2013): 381–99, <https://doi.org/10.1017/S1755773912000173>.

In this context, democracy development at the local level is part of the agendas pursued by many countries around the world, focusing on improving the quality of the regional electoral system and process.⁵ The same was performed with the regional head elections' system due to the various flaws according to the evaluation results including a high number of frauds⁶, corruption⁷, money politics⁸, and strong patronage relationships between candidates and voters.⁹ Corruption, collusion, and nepotism persist despite the existence of an independent institution for addressing these problems, namely the Corruption Eradication Commission.¹⁰ These factors prompt regional head elections to be expensive and counterproductive to the development objectives.¹¹

Along with the advancement of democracy and the national election system, the legal politics shifted to the simultaneous regional head elections model which is capable of saving costs compared to elections held on different days. By holding regional head elections simultaneously, it is expected that the state can save funds and minimize the negative effects of money circulation such as fraud and money politics. However, the outcomes of post-implementation evaluations for previous simultaneous regional head elections varied. Certain publications stated that the objectives of efficiency or savings were not achieved¹² while others claimed it was quite successful in saving election budgets in several regions.¹³

An indicator that will facilitate these elections to be more efficient is when the election for governors, regents, and mayors takes place simultaneously in a province or even throughout Indonesia.¹⁴ Only in this manner can budget efficiency be achieved as each region will pay the election administrator's salary and logistics only once. However, there will be several regional heads whose terms of office will be reduced which will prompt the politicians to be more susceptible to resistance and polemic. The government, on the other hand, is convinced about holding simultaneous regional head elections across the country in November 2024. This is explicitly stated in Article 201, paragraph 8 of Law Number 10 of 2016. Consequently, election organizers should hold simultaneous gubernatorial elections in 33 provinces minus the Special Region of Yogyakarta and regent/mayor elections in 514 regencies/cities across Indonesia on November 24, 2024.

A legal consequence of the 2024 simultaneous regional head elections is that the terms of several politicians elected in 2020 will be shortened. In practice, regional heads elected in 2020 will serve for approximately 3.5 years or less, depending on the time of inauguration. In Lampung province, for example, seven regional heads were elected in 2021 making the term of office under threat of being reduced by two years.

⁵ Hester M. van de Bovenkamp and Hans Vollaard, "Strengthening the Local Representative System: The Importance of Electoral and Non-Electoral Representation," *Local Government Studies* 45, no. 2 (2019): 196–218, <https://doi.org/10.1080/03003930.2018.1548351>.

⁶ Diego Fossati, "A Tale of Three Cities: Electoral Accountability in Indonesian Local Politics," *Journal of Contemporary Asia* 48, no. 1 (2018): 23–49, <https://doi.org/10.1080/00472336.2017.1376345>.

⁷ Bambang Suharnoko Sjahrir, Krisztina Kis-Katos, and Günther G. Schulze, "Political Budget Cycles in Indonesia at the District Level," *Economics Letters* 120, no. 2 (2013): 342–45, <https://doi.org/10.1016/j.econlet.2013.05.007>.

⁸ Firman Noor et al., "The Implementation of Direct Local Election (Pilkada) and Money Politics Tendencies: The Current Indonesian Case," *Politik Indonesia: Indonesian Political Science Review* 6, no. 2 (2021): 227–46, <https://doi.org/10.15294/ipsr.v6i2.31438>.

⁹ Laurens Bakker, "Electoral Dynamics in Indonesia: Money Politics, Patronage, and Clientelism at the Grassroots," by Edward Aspinall and Mada Sukmajati (Eds.), *Bijdragen Tot de Taal-, Land- En Volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia* 177, no. 1 (2021): 128–30, <https://doi.org/10.1163/22134379-17701002>.

¹⁰ Rizki Ramadani and Moch Andry W W Mamonto, "Independency of the Corruption Eradication Commission of the Republic of Indonesia (KPK RI) in Indicators of Independent Regulatory Agencies (IRAs)," *Substantive Justice International Journal of Law* 1, no. 2 (2018): 82, <https://doi.org/10.33096/substantivejustice.v1i2.18>.

¹¹ Agus Riwanto, "The Construction of Law Neutrality of State Civil Apparatus in the Simultaneous Local Election in Indonesia," *Yuridika* 34, no. 2 (2019): 237, <https://doi.org/10.20473/ydk.v34i2.7926>.

¹² Pangi Syarwi Chaniago, "Evaluasi Pilkada Pelaksanaan Pilkada Serentak Tahun 2015," *Politik Indonesia: Indonesian Political Science Review* 1, no. 2 (2016): 196, <https://doi.org/10.15294/jpi.v1i2.6585>.

¹³ Rahmat Muhajir Nugroho and Anom Wahyu Asmorojati, "Simultaneous Local Election in Indonesia: Is It Really More Effective and Efficient?," *Jurnal Media Hukum* 26, no. 2 (2019): 213–22, <https://doi.org/10.18196/jmh.20190135>.

¹⁴ Chaniago, "Evaluasi Pilkada Pelaksanaan Pilkada Serentak Tahun 2015."

The reduction in term of office for many regional heads due to the simultaneous regional head elections in 2024 is perceived unfavorably. Regional heads who should be able to serve for five years should be forced to step down and be replaced by acting regional heads for an extended period. The five-year rule is considered ideal for developing the region through measurable policy programs. However, a shorter term of office significantly impacts the development performance initiated by the regional head. The 2024 simultaneous local elections also impact the vacancy of regional heads whose terms expire during the year. In practice, hundreds of regions in Indonesia should be replaced with officials appointed by the government rather than the results of democratic elections in the years 2022 and 2023.

The issues raised show that the legal policy of simultaneous national and regional head elections is incoherent. However, there is a desire to create an efficient and effective electoral system which has to be accomplished despite shortening the term of office for regional heads and creating vacancies in several regions. These contradictory issues are intriguing to investigate from the standpoint of legal antinomy. In legal theory, antinomy is defined as a paradox, inconsistency, or discrepancy in the logic of a legal substance which includes a contradiction between two or more rules and legal principles about a specific condition and time.¹⁵

Scholars have frequently applied antinomy theory to the study of legal and political phenomena. For instance, Alex Mills examined the contradiction between the Public and Private at the Foundations of International Investment Law sector.¹⁶ The control of community participation rights which are handled inconsistently by laws and regulations in the environmental sector was also examined from this perspective.¹⁷ Antinomy theory is further discussed by Mochtar in the context of Indonesian legislation.¹⁸ Furthermore, Ramadani et al. evaluated the COVID-19 pandemic's regional head elections policy and discovered a legal antinomy between the realization of political obligations and the right to health.¹⁹

Based on the review of previous publications and a search of numerous additional works on comparable subjects, no article has addressed the contradictions in the policy of simultaneous regional head elections in 2024 from an anti-legal standpoint. Consequently, this problem presents a significant gap that has not been covered and provides an opportunity for the distinct analysis of two key issues. The study questions include (1) What kind of antinomy can originate from contradictory legal phenomena? and (2) How and to what extent does the legal antinomy affect the policy for the simultaneous regional head elections in 2024? Based on these discoveries, the study objective is not to directly solve the problems raised by simultaneous local election laws but rather to point out the legal antinomies these policies breach to establish a foundation upon which recommendations can be facilitated.

In the part of introduction, the author is recommended justify that the issue anchoring simultaneous local election remains updated and sustainable. This is due to the Pilkada Law 2016 attempts to address the transition of local leadership situation until November 2024.

B. "Normative" and "Principle" Antinomy of Law

¹⁵ Luka Burazin, "Antinomies between Implicit Legal Principles: A Solution to the Total-Partial Antinomy," Courts, Interpretation, and The Rule Of Law, no. January (2014).

¹⁶ Alex Mills, "Antinomies of Public and Private at the Foundations of International Investment Law and Arbitration," *Journal of International Economic Law* 14, no. 2 (2011): 469–503, <https://doi.org/10.1093/jiel/jgr020>.

¹⁷ Febriansyah Ramadhan and Ilham Dwi Rafiqi, "Antinomy of Community Participation Rights in the Law on the Environmental Sector," *Jurnal Daulat Hukum* 4, no. 3 (2021): 171, <https://doi.org/10.30659/jdh.v4i3.17212>.

¹⁸ Zainal Arifin Mochtar, "Antinomi Dalam Peraturan Perundang-Undangan Di Indonesia," *Hasanuddin Law Review* 1, no. 3 (2015): 316, <https://doi.org/10.20956/halrev.v1n3.112>.

¹⁹ Rizki Ramadani and Farah Syah Rezah, "Regional Head Election During COVID-19 Pandemic: The Antinomy in the Government Policies," *Yuridika* 36, no. 1 (2021): 213, <https://doi.org/10.20473/ydk.v36i1.23528>.

Commented [A9]: Please clarify this analysis, as the acting head of local government is only appointed due to the previous governors or mayors' terms were terminated. While waiting for the agenda November 2024, the head of local government is appointed and ruled by the acting one.

If the author has counter argument and will keep the statement, please provide the sample in one or two places.

Commented [A10]: It is suggested to provide the prove of the mentioned impacts.

Commented [A11]: Is it really no article?

Commented [A12R11]: It is less recommended to claim "no article" just because the previous studies barely used the term "antinomy".

Some works may examine some provisions regarding this issue from the perspective of certain principle and or the provisions of the legislation. Thus their analysis hardly undermine and ignore that there are some contradiction of norms found.

In this case, the author may consider several articles which criticize and questions the provisions underpinning the simultaneous/ concurrent local election. It is suggested to acknowledge:

1. Ongky, Alexander., Rona, Okra. (2024). Postponement Of Elections Perspective Of Constitutional Law In The Indonesian Constitution. doi: 10.37092/hutanasyah.v2i2.705
2. Ratnia, Solihah. (2017). Politik transaksional dalam pilkada serentak dan implikasinya bagi pemerintahan daerah di indonesia. 2(1):97-109.
3. G., Goris, Seran. (2017). Designing Model of Concurrent Local Executive Election: The Case of Indonesia. *International Journal of Sciences: Basic and Applied Research*, 36(2):93-109.
4. Osbin, Samosir. (2021). Looking for the form of indonesian democracy: study of pancasila ideology towards concurrent elections in 2024. 2(4):676-686. doi: 10.31933/DIJEMSS.V2i4.831
5. Tiara, Kartika, Nabela., Arfa'i, Arfa'i. (2023). Pengaturan penyelenggaraan pemilihan kepala daerah serentak tahun 2024 berdasarkan undang-undang nomor 10 tahun 2016. *Limbago: Journal of Constitutional Law*, 3(3):415-427. doi: 10.22437/limbago.v3i3.22189
6. Tiara, Kartika, Nabela., Arfa'i, Arfa'i. (2023). Pengaturan penyelenggaraan pemilihan kepala daerah serentak tahun 2024 berdasarkan undang-undang nomor 10 tahun 2016. *Limbago: Journal of Constitutional Law*, 3(3):415-427. doi: 10.22437/limbago.v3i3.22189
7. Muhammad, Wahdini. (2022). The Effectiveness of Simultaneous Election 2019: Evaluation Through the Simultaneous Election 2024. *Jurnal Bina Praja: Journal of Home Affairs Governance*, 14(1):123-134. doi: 10.21787/jbp.14.2022.123-134
8. (2023). Expensive Political Costs in the 2024 Simultaneous Elections. 1(1):01-20. doi: 10.59581/jhsp-widyakarya.v1i1.144

A legal norm either in the form of a regulation, decree, or decision frequently contained contradictions or paradoxes that affected the interpretation, intent, or potential legal implications of the policy. In law science, this phenomenon was known as the antinomy of law. By definition, antinomy represented a circumstance that contradicted itself (a debate between elements) but could not be divided because both depended on each other. The concept of Immanuel Kant in the age-old struggle between reason and nature served as the epistemological foundation for the antinomy theory. Kant applied this logic to the greatest works titled "Critique of Pure Reason" which contained analysis of the fundamental contradictions.²⁰ This contradiction significantly impacted the manner of legal reasoning which constantly pursued and maintained an equilibrium point in every situation. The idea of antinomy in law evolved as a "contrast concept," which served as the foundation for analyzing the norms and principles in a legal system.

Examining several studies on antinomy in law, a minimum of two types of legal antinomy based on nature were identified namely "normative" and "principle" antinomy of law. In the first form, antinomy originated from a legal norm implemented in a factual situation where the application contradicted other regulations. Contradictions arose in this situation due to differences between one rule and another within the same legal sector. For example, a juridical-normative nature was observed in a study conducted by Febriyanti et al regarding the legal policy on the use of foreign workers in Government Regulation Number 34 of 2021.²¹ Several provisions in government regulations were also considered to ease the path for foreign workers to enter the country, contradicting several labor law regulations that limited the use of foreign workers to safeguard the rights of domestic employees. In this instance, a contradiction existed between legal rules that preserved local employees' opportunities and those favoring foreign investment and calling for convenient access.

Another example was the simultaneous regional head elections conducted in 2021 during the COVID-19 epidemic. There was a contradiction between the legal rules for conducting regional head elections which unavoidably led to crowds, and the rules for social restrictions prohibiting crowds (physical distancing). The contradicting norms ranged from constitutional provisions (political obligations vs. the right to health) to organic laws and technical regulations such as the Minister of Health vis-a-vis General Election Commission Regulations.²² This type of antinomy arose due to the nature of the law which was essentially a political product formed through a process of negotiation and consolidation of various interests. This necessitated the existence of legal norms between two or more competing interests but the law could not satisfy all of the interests.

Antinomy in law could occur at the level of legal principles which were more philosophical and fundamental. At this level, antinomy was reflected in the contradiction between the principles of legality, *rechtswegering*, and judicial freedom in the context of legal construction by judges.²³ According to the consensus among jurists, the legality concept served as a key tenet in applying criminal law and guiding judges in rendering judgments. A positivistic interpretation of this principle emphasized that judges only served as *boucha de loi*, or spokespersons for the legal provisions.²⁴ Judges were not allowed to interpret clear laws or formulate analogies except in the common law tradition.²⁵ However, this contradicted the principle that a judge may not dismiss a case due to the absence of governing law. When the legality principle forbade judges from thinking independently

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If it is constructed by the author by own self through this article, it is suggested to provide previous explanation to justify why the author comes to this distinction (normative and principle).

²⁰ Silvia De Bianchi, "When Series Go in Indefinitum, Ad Infinitum and in Infinitum Concepts of Infinity in Kant's Antinomy of Pure Reason," *Synthese* 192, no. 8 (2015): 2395–2412, <https://doi.org/10.1007/s11229-015-0813-2>.

²¹ Khairina Febriyanti, Irma Suryani, Zainuddin, "Kontradiksi Peraturan Pemerintah Nomor 34 Tahun 2021 Tentang Penggunaan Tenaga Kerja Asing," *Jurnal Integrasi Ilmu Syari'ah* 3, no. 3 (2022): 497–509, <https://doi.org/http://dx.doi.org/10.31958/jisrah.v3i3.8395>.

²² Ramadani and Rezah, "Regional Head Election During COVID-19 Pandemic: The Antinomy in the Government Policies."

²³ E. Nurhaini Butarbutar, "Antinomi Dalam Penerapan Asas Legalitas Dalam Proses Penemuan Hukum," *Yustisia Jurnal Hukum* 1, no. 1 (2012): 145–57, <https://doi.org/10.20961/yustisia.v1i1.10614>.

²⁴ Anggita Lumbanraja, Yusriadi Yusriadi, and Shidarta Shidarta, "Legal Interpretation in Judicial Decision Making on Environmental Cases: Judges in the Domination of Civil Law System," 2023, <https://doi.org/10.4108/eai.27-7-2022.2326268>.

²⁵ Adam Rigoni, "Common-Law Judicial Reasoning and Analogy," *Legal Theory* 20, no. 2 (2014): 133–56, <https://doi.org/10.1017/S1352325214000044>.

when constructing laws, the *rechtweigeren* policy motivated judges to find laws using personal methods, especially when it was relevant to the principle of judge independence.

The Indonesian Supreme Court's jurisdiction to review statutory regulations under the legislation also represented antinomy. When the Supreme Court was granted the authority to conduct judicial review of laws and regulations, the only objection initially surfaced was that the authority should be granted to the Constitutional Court since it was more pertinent to the matter of reviewing legislation (*toetsingrecht*) while the Supreme Court should concentrate solely on law enforcement.²⁶ Several issues arose over time including the duality of reviewing regional regulations by the Government (executive review) and the Supreme Court (judicial review). Furthermore, issues arose when the Supreme Court was required to review regulations originating from the legal products, i.e., the Supreme Court Regulations.²⁷ In this context, there was a contradiction between the principle of "*ius curia novit*," which demanded the Supreme Court proceed to examine the appeal, and the policy of "*nemo iudex in propria causa*" prohibiting judges from handling cases personally engaged.

Principle antinomy of law could be caused by attempting to realize more than one legal principle simultaneously, especially when some of these policies contained objectives that contradicted one another. This was reflected in Gustav Radbruch's classic theory of legal ideals (*idee des rechts*), conceived on three principles namely expediency (*zweckmassigkeit*), justice (*gerechtigkeit*), and legal certainty (*rechtssicherheit*).²⁸ The theory adhered to the dictum that an ideal law could achieve all three principles simultaneously, even though in reality it sounded rather utopian.

Empirically, finding examples was easier where the objectives of the law contradicted each other in application. This was reflected among other aspects in the case of agrarian conflict resolution between community farmer groups and large private companies in OKI Regency regarding land use. In Decision Number 06/Pdt.G/2014/PN. Kag, the judge rejected the counterclaim from the farmers because the lawsuit was slanderous. This case showed that formal principles in law could override aspects of justice and expediency.

Principle Antinomy of Law was further represented in the competition between the two popular schools of law namely the streams of judicial activism vs. self-restraint.²⁹ In the Indonesian context, the contradiction between these theories became a central topic in the debate over Constitutional Court judges' decisions in examining laws that violated the Constitution. The Constitutional Court with the authority to overturn laws held the position of a negative legislature³⁰ contrasting with the executive and legislative bodies as positive. Over time, the Constitutional Court frequently issued decisions that exceeded the authority as a negative legislator making decisions and formulating new norms (positive legislators)³¹. This led to an unfavorable relationship between the judiciary and the legislature, particularly due to the lack of limits on the powers of the Constitutional Court in examining laws. The type of judicial activism was often lauded for attempting to fulfill substantive justice rather

²⁶ Simon Butt, "Judicial Reasoning and Review in the Indonesian Supreme Court," *Asian Journal of Law and Society* 6, no. August 2018 (2019): 67–97, <https://doi.org/10.1017/als.2018.26>.

²⁷ Safudin Endrik, "Harmonisasi Hukum Dalam Antinomi Hukum (Analisis Terhadap Penerapan Pasal 20 Ayat 2 Huruf B Undang-Undang Republik Indonesia Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman)," *Al-Syakhsyiyah Journal of Law & Family Studies* 2, no. 2 (2020): 202–29.

²⁸ John Kenedi, "Justification Of Pancasila Law State As An Effort To Realize Indonesian Progressive Law" 15, no. 2 (2022): 172–91, <https://doi.org/10.2478/bjlp-2022-001011>.

²⁹ Françoise Tulkens, "Judicial Activism v Judicial Restraint: Practical Experience of This (False) Dilemma at the European Court of Human Rights," *European Convention on Human Rights Law Review* 3, no. 3 (2022): 293–300, <https://doi.org/10.1163/26663236-bja10048>.

³⁰ Lidia Oshlyansky and Paul Cairns, "The Challenges Faced by Academia Preparing Students for Industry : W Hat W e Teach and W Hat W e D O" 17, no. 1988 (1904): 203–4.

³¹ Laurence Claus and Richard Kay, "Constitutional Courts as 'Positive Legislators' in the United States," *American Journal of Comparative Law* 58, no. 1 (2010): 479–504, <https://doi.org/10.5131/ajcl.2009.0018>; Risdiana Izzaty and Xavier Nugraha, "Perwujudan Pemilu Yang Luberjurdil Melalui Validitas Daftar Pemilih Tetap," *Jurnal Suara Hukum* 1, no. 2 (2019): 155, <https://doi.org/10.26740/jsh.v1n2.p155-171>.

than merely procedural justice³². However, this practice frequently led to deadlocks in constitutional issues such as filling legal gaps (*rechtsvacuum*) and upholding societal justice³³.

The preceding examples of principle antinomy appeared to show the inherent nature of laws that might contain a contradiction. According to Friedmann as quoted by Mochtar, the condition was because doctrines in the science of law were compiled based on philosophical reasoning which was relative when rational³⁴. Furthermore, W. Friedmann stated that legal theory possessed a minimum of eight antinomies namely (1) individual and universe, (2) volunteering and objective knowledge, (3) reason and intuition, (4) stability and change, (5) positivism and idealism, (6) collectivism and individualism, (7) democracy and autocracy, as well as (8) internationalism and nationalism.³⁵

The main difference between principle and normative antinomy was that contradiction in the domain of statutory regulations could still be resolved with relevant legal principles and/or theories. For example, conflicts between one law and another could be resolved by harmonization theory. When regulatory conflicts occurred between lower and higher regulations, vertical harmonization was carried out based on the principle of *lex superior derogate legi inferior* (higher law overcomes lower law). In this context, legal principles served to determine the area of application of rules in the interpretation or discovery, rules uniting legal principles, and policies maintaining the consistency and coherence of legal rules, among other things.

Antinomy in the context of meta-juridical principles and theories differs as no practical solution existed for addressing these issues. Different paradigms for understanding the law were typically the root cause of conflicts at the level of legal theory and principles. This paradigm shift was the outcome of historical arguments between various legal schools including legal positivism which emphasized the consistency of the natural law, exalting justice as the fundamental of the law.³⁶ Similar aspects could be said for legal institutions during the postmodernist age such as the critical legal studies movement, whose perspectives were constantly critical and incisive by viewing law not as a value-free order but rather as a complex system of interests and hegemony.³⁷ This most contemporary paradigm had made significant contributions to showing the illogic of existing laws.

C. Normative and Principle Antinomy in the National Simultaneous Regional Head Elections

In Indonesia, a series of simultaneous regional head elections were held in several batches beginning in December 2015 for all leaders whose terms of office officially ended that year. However, 33 provinces (governors), 30 cities (mayors), and 224 districts (regents) participated in the 2015 simultaneous local elections. In 2017, 7 provinces, 18 cities, and 76 regencies held the elections for regional heads whose terms of office ended during that period. The third round of regional elections should have been held in September 2020 before the arrival of the COVID-19 pandemic. Despite being postponed until 2021, the elections were held in December 2020 in 270 regions (9 provinces, 224 districts, and 37 Cities). Although the elections were conducted simultaneously, it still varied in timing due to differences in the commencement and end of the regional government periods across Indonesia.

Similar to the previous model, the 2024 simultaneous regional head elections were scheduled to be held in all regions of Indonesia including the 34 provinces as well as 514 districts and cities. The election

³² Rahayu Prasetyaningstih, "Judicial Activism in Indonesia: Constitutional Culture by the Constitutional Court," *Jurnal Kajian Ilmu Hukum Dan Syaria* 5, no. 2 (2020): 160–77.

³³ Indriati Amarini, "Implementation of Judicial Activism in Judge's Decision," *Jurnal Hukum Dan Peradilan* 8, no. 1 (2019): 21, <https://doi.org/10.25216/jhp.8.1.2019.21-38>.

³⁴ Mochtar, "Antinomi Dalam Peraturan Perundang-Undangan Di Indonesia."

³⁵ Ramadani and Rezah, "Regional Head Election During COVID-19 Pandemic: The Antinomy in the Government Policies."

³⁶ Brian Flanagan and Ivar R. Hannikainen, "The Folk Concept of Law: Law Is Intrinsically Moral," *Australasian Journal of Philosophy* 100, no. 1 (2022): 165–79, <https://doi.org/10.1080/00048402.2020.1833953>.

³⁷ Juhana Salojärvi, "A Counter-Culture of Law: Jurisprudential Change and the Intellectual Origins of the Critical Legal Studies Movement," *American Journal of Legal History* 59, no. 4 (2019): 409–43, <https://doi.org/10.1093/ajlh/njz022>.

was set for November 24, 2024, ensuring that all regions participated on the same day. Simultaneous general elections to elect a president and vice president, members of the People's Representative Council (DPR) of Indonesia, the Regional Representative Council (DPD) of Indonesia, as well as provincial and district/city regional people's representative councils (DPRD) were scheduled for February 14, 2024. This would be the first and largest synchronized election in Indonesia, as elections and local elections have never been held in the same year simultaneously before.

Legal politics serving as a basic justification for this policy could be broken down into two categories namely the desire to create political stability and the need to minimize election costs. The General Election Commission expressed that simultaneous local and general elections aimed to foster political conditions conducive to overall governmental stability. The Commission which was the authority in charge of administering elections expressed this opinion. According to Hasyim Asy'ari who was the Head of the General Election Commission, elections were primarily intended to form a government at the national and regional levels by filling out vacancies in each cabinet. Therefore, synchronizing elections with regional elections led to a stable government because it had institutionalized time by having both the central and regional governments begin the five-year terms simultaneously.

In this context, the relevance of the argument that simultaneous local elections could create better governance stability conceptually was questionable. This was because the stability of government was the expected effect of the simultaneous design of general elections (executive and legislative elections).³⁸ The essence of this election design was to hold legislative and executive elections on the same day for a congruent government to be established, i.e., the election of executive officials (President and Vice President) who have the support of a legislative majority. This governance pattern would have a significant effect on governmental stability³⁹ which was the basis for the claim that simultaneous elections could strengthen the presidential system.⁴⁰ In contrast, the theoretical stability of government was an expected effect of simultaneous presidential and legislative and not the regional head elections.

Even when the rationalization of the 2024 simultaneous local elections to create governmental stability was accepted, it would lead to a contradiction. Theoretically, simultaneous regional elections were held to create stability in government by allowing officials to begin the terms of office at the same time. However, the study also recognized that the 2024 simultaneous local election policy have generated vacancies in many regions. According to the Ministry of Home Affairs, more than 200 regional heads would be filled by temporary officials due to vacancies before the 2024 elections. In 2022, temporary officials filled 101 regional heads including 76 regents, 18 mayors, and 7 governors. No fewer than 171 heads from the 2018 regional elections would also be leaving office in 2023. Details on 38 mayors, 115 regents, and 18 governors were included in this figure. Based on this evidence, the first antinomy in the simultaneous local election policy was the conflict between the objective of simultaneous regional elections to create government stability and the instability caused by many vacancies in the head position.

There were consequences despite Article 201 paragraph (9) of Law number 10 of 2016 allowing the appointment of acting regional heads whose terms ended in 2022 and 2023. The appointment of officials to replace regional heads have a minimum of three consequences namely administrative, political, and sociological consequences. From an administrative standpoint, the presence of an official was intended to allow the continuation of the government administration but this do not imply that the process would be smooth. Despite having an equal legal basis, the acting regional head's

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³⁸ Moh. Ilham A. Hamudy and M. Saidi Rifki, "Strengthening the Multi-Party Presidential Government in Indonesia," *Politik Indonesia: Indonesian Political Science Review* 4, no. 2 (2019): 208–32, <https://doi.org/10.15294/ipsr.v4i2.18447>.

³⁹ Rizki Bagus Prasetyo and Febri Sianipar, "The Relevance of the Application of the Presidential Threshold and the Implementation of Simultaneous Elections in Indonesia," *Jurnal Penelitian Hukum De Jure* 21, no. 2 (2021): 267, <https://doi.org/10.30641/dejure.2021.v21.267-284>.

⁴⁰ Iding Rosyidin, "The Simultaneous Election in Indonesia : Problems and Solution," no. January (2018), <https://doi.org/10.2991/icpsp-17.2018.43>.

authority was not identical to the definitive leader. Furthermore, there were several restrictions on what officials could and could not do. Some of these aspects were quite strategic with the potential to impede government operations which included the authority to appoint, transfer, and dismiss officials within the regional government, among other things. The restrictions were stated in the Head of the National Civil Service Agency Letter Number K.26-30 IV.100-2|99 Concerning the Explanation of the Acting Regional Head's Personnel Authority. The policy explained that the Acting Regional Head was not authorized to make decisions with legal consequences (civil effect) on staffing aspects such as appointments, transfers, and dismissals in/from civil apparatus positions unless written approval from the Minister of Home Affairs was obtained.

The observed limitation correlated with the provisions of Article 14 paragraph (7) of Law Number 30 of 2014 concerning Government Administration stating that Government Agencies and/or Officials who obtained authority through mandates were not authorized to make decisions and/or actions impacting changes in organizational structure, staffing, and budget allocation. Consequently, officials could not prepare the regional medium-term development plan (RPJMD) documents as stipulated in regional regulations. This was because the RPJMD contained an elaboration of the vision and mission of the elected regional head whose validity period was five years or concurrent with the term of office of the leader concerned. Furthermore, officials were not authorized to set the vision and mission. In practice, this hindered regional expenditure activities and financial management which had to refer to the RPJMD document.

In terms of political implications, the placement of acting regional heads or temporary officials was vulnerable to introducing certain political interests. There was also speculation about the potential for re-centralization with many officials elected and appointed by the central government. This included the assumption of non-neutrality of officials and the discourse on the appointment of members of the Indonesian National Police as well as the Armed Forces to fill the vacant positions. For example, in West Bandung Regency, officials formulated the vision and mission as well as the Long Term Development Plan (RPJP) which served as the definitive regional plan. The RPJP was further haphazardly outlined in a Regent's Regulation which should be in the form of a regional regulation. Similar to the Pangandaran Regency, the executor of the task of the regent intensively managed the bureaucracy and rotated positions beyond the authority.⁴¹

Administrative and political implications had an impact on serving the needs of the community in the regions (social implications). Obstacles to regional spending undoubtedly impacted meeting people's needs.⁴² Furthermore, officials full of political interests could trigger public discontent and distrust, risking public disobedience and even horizontal conflict. The potential for horizontal conflict in the pre-and post-election periods was significant. Conflict escalation could have increased massively when it happened simultaneously in various regions. This further reinforced the concern that the simultaneous regional head elections which were intended to support government stability would disrupt government operations and interfere with preparations for the elections.

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Table 1: Antinomy in 2024 Regional Head Elections

No.	Type of Antinomy	Explanation
1	Normative	Simultaneous regional head elections based on Article 201 paragraph (8) of the Regional Head Elections Law aimed to create government stability but the appointment of temporary officials acting as regional heads in various regions

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⁴¹ Nandang Alamsah Deliarnoor, "Problematisa Pelaksana Tugas (Plt) Dalam Masa Transisi Pemerintahan (Pra Dan Pasca Pilkada Serentak)," *CosmoGov* 1, no. 2 (2017): 322, <https://doi.org/10.24198/cosmogov.v1i2.11841>.

⁴² Ferensky Regina Sandjaja, Ferinda Nafisa, and Ita Nurmanti Manurung, "The Impact of Fiscal Decentralization on Welfare in Selected Provinces in Indonesia," *Jurnal Bina Praja* 12, no. 1 (2020): 21–31, <https://doi.org/10.21787/jbp.12.2020.21-31>.

		based on Article 201 paragraph (9) have the potential to cause instability.
2	Principle	Simultaneous local elections based on the Regional Head Elections Law were aimed at budget efficiency (legal utility/purposiveness) but shortened the term of office of the regional head guaranteed by the law (legal certainty).
Source: Analyzed from the primary source.		

Table 1 showed that in addition to the paradox between the stability purpose and the instability impact of the 2024 simultaneous regional elections, there was also an antinomy between efforts to increase efficiency or save the budget as well as the shortening of regional heads' terms of office. As stated previously, part of the main objectives of designing simultaneous elections was to maximize state budget efficiency. The objective was stated by DPR Commission II member Luqman Hakim stating that the government supported the simultaneous regional election policy to carry out efficiency and refocus part of the election budget on handling the impact of the COVID-19 pandemic, such as enhancing poverty and unemployment. This further implied that the purposefulness aspect was the main consideration in the legal politics of the 2024 simultaneous local elections. However, the objective was contradictory to the reduction in the term of office of regional heads who had not finished the period but were required to finish and take part in the upcoming elections. The law further guaranteed regional heads five years of service. In other words, there had been an antinomy between the principles of expediency (efficiency efforts) and legal certainty (five years of service).

Indonesian laws and regulations guaranteed a fixed term of office for regional heads. This was explicitly stated in Article 162 paragraphs (1) and (2) of Law Number 10 of 2016 and Article 60 of Law Number 23 of 2014 concerning regional government. The Article stated that the term of office for regional heads was 5 years from the date of inauguration. However, regional heads who started the terms of office in 2020 and 2021 would experience a 1-2 year cut with the agreement on the simultaneous regional elections in November 2024 as stated in Law 10/2016. This gave rise to "ended" and "finished" terms of office. For regional heads appointed in 2020 and 2021, the terms of office would not end automatically for up to five years but would be considered completed in 2024 for the next election. This condition contradicted the provisions of the regional head elections and the regional government laws which guaranteed the political rights of every elected leader to serve and exercise authority for a full five years.

The issue was once submitted to the Constitutional Court by the pair of regional heads elected in the 2020 elections which were registered in Case Number 18/PUU-XX/2022.⁴³ The Court in the decision rejected the applicant's application entirely. In the legal considerations, the court stated that cutting the term of office of regional heads was not against the concept of human rights. As a political right, the tenure of a regional head was categorized as a derogable right and was limited based on the reasons set out in Article 28J paragraph (2) of the 1945 Constitution. The reasons included (a) being carried out by law, (b) guaranteeing recognition and respect for the rights and freedoms of others, and (c) meeting demands following considerations of morality, religious values, security, and public order in a democratic society. However, this decision still contained ambiguity. When the term of office of a regional head guaranteed by law was a political right that could be limited or reduced, then on what grounds could the government make the reduction? The court only based the reasoning on the general provision in Article 28J of the 1945 Constitution without explaining the causality logic and

⁴³ Emmanuel Ariananto et al., "Reflections and Expectations of Democracy in The Implementation of Regional Autonomy : Long - Term Potential for Appointment of Acting Regional Heads," *PLEDOI (Jurnal Hukum Dan Keadilan)* 2, no. 1 (2023): 50–68, <https://doi.org/10.56721/pledoi.v2i1.184>.

- Commented [A24]:** Please provide which principles/ theoretical/ conceptual lens used to conclude "stability" and "instability"? Please justify which valid method applied to conclude instability?
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relevance of the legal limitation (letters a, b, and c of Article 28J) on the issue of reducing the regional heads' fixed term of office.

The case was considered to remind the public of the classic antinomy between the purpose of law for benefit vs legal certainty. As previously stated by Immanuel Kant and quoted by van Apeldoorn, justice would be increasingly difficult to achieve (*summum ius summa iniuria*) when the law was implemented as stated. On the other hand, the law would eliminate more uncertainty when implemented under certain circumstances. When the government became consistent with the provisions of Article 162 of Law 10/2016 and Article 60 of Law 23/2014 regarding terms of office for regional heads, simultaneous local elections were not carried out nationally. Therefore, the objective of budget efficiency would not be optimal similar to the regional elections in the previous period. However, when the consistent government was to hold regional elections simultaneously nationally in 2024, it would be impossible not to violate the provisions of the law and the political rights of democratically elected regional heads. Based on this analysis, the results showed that the phenomenon of simultaneous regional head elections in Indonesia did not realize the expected benefits of the elections. In the case of Indonesia, the analysis showed that the advantages of simultaneous regional head elections did not realize budget efficiency, both in the previous and 2024 periods. This was also applied in the context of election rifts and political stability. Simultaneous regional head elections created many vacancies for regional heads in certain regions which had to be covered by the appointment of temporary officials with minimal legitimacy.

An example of simultaneous regional head elections could be found in the elections of governors and mayors in Japan. These elections were known as "Simultaneous Prefectural Elections" (*Todōfuken Shichō Issai Senkyō*) and were held periodically to elect prefectural governors and mayors in major cities across Japan.⁴⁴ However, the problem of antinomy in simultaneous regional head elections seemed to be a unique problem faced by Indonesia. The various issues discussed such as reducing the term of office and replacement officials unilaterally appointment were not found in other countries that also carried out simultaneous elections including Japan, South Korea, and Spain where the time gap between the two electoral regimes was only 28 days apart.⁴⁵ This was because these problems only occurred in countries that were still in a transitional period from a gradual election model to a national simultaneous election model such as Indonesia. Furthermore, the results of this study showed intriguing and relevant aspects that other scholars should consider before adopting simultaneous regional head elections, particularly in countries with several territorial entities. Although simultaneous elections were widely regarded as having several advantages such as Indonesia with numerous regions would leave many problematic issues. This included the risk of escalating conflicts that occurred concurrently, prompting the control to be difficult and leading to a burdensome workload for officials and the election committee. The controversy over regional heads' reduced terms of office and the central government's "biased" appointment of replacement officials was a recent issue in Indonesia but it served as a warning to other countries that wanted to switch (transition) from a local electoral system gradually to a simultaneous election.

D. Conclusion

In conclusion, the national simultaneous regional head elections policy scheduled for November 2024 aimed to improve on the previous design of simultaneous elections. It was expected that national synchronization would lead to government stability and budget efficiency. However, the antinomy of law, policy, and legal politics was not without the contradiction and paradox, both normative and

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⁴⁴ Toru Yoshida, "Populism 'Made in Japan': A New Species?," *Asian Journal of Comparative Politics* 5, no. 3 (2020): 288–99, <https://doi.org/10.1177/2057891119844608>.

⁴⁵ Laura Cabeza and Matthias Scantamburlo, "Dual Voting and Second-Order Effects in the Quasi-Simultaneous 2019 Spanish Regional and National Elections," *Revista Española de Ciencia Política* 55 (2021): 13–35, <https://doi.org/10.21308/recp.55.01>.

principle. The notion of simultaneous local elections for political stability possessed the possibility of causing more social instability due to the issue of vacancies in various regions that needed to be filled with temporary officials appointed by the central government, among other concerns. Similarly, the benefits from the 2024 simultaneous regional head elections in terms of budget efficiency contradicted the aspect of legal certainty as the term of office of regional heads guaranteed by law was reduced. All these antinomies needed to be understood and considered by all stakeholder groups and policymakers. In principle, the law could not satisfy all parties but the public interest had to remain the main benchmark for any legal policy made. This was to ensure that the law could be less problematic and could serve as a solution for all issues (*Lex Semper dabit remedium*). Based on this evidence, several conditions were proposed for holding national simultaneous regional head elections in 2024. First, the elections should only include regional heads who had completed the term of office or had served for five years beginning with the inauguration and ending before the election date. Therefore, problems about violations of constitutional rights related to tenure could be avoided, and regional heads could carry out the duties thoroughly and uninterruptedly. Second, regional heads whose terms of office expire before the implementation of the 2024 regional head elections could be temporarily replaced by the regional secretary in coordination with the Minister of Home Affairs. This was to avoid conflicts of interest between the central and the regional entities, as well as to ensure that local government could still function legitimately. Additionally, the government would not need to fill vacancies in various regions, avoiding distrust from the local community.

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Commented [A31]: The subject matter of this heading should include the key conclusion to respond to the expectation in the background:

(1) What kind of antinomy can originate from contradictory legal phenomena? and (2) How and to what extent does the legal antinomy affect the policy for the simultaneous regional head elections in 2024?

The conclusion is hardly indicate which type of antinomy is mainly reflected in the contradiction of discussed legal norms.

The conclusion is also less fulfilling the question on the impact of the respected antinomy to the governance of the simultaneous regional head elections in 2024? It can be due to there is absent of statement regarding the scope of aspects of the simultaneous regional head elections in 2024 to be examined.

Commented [A32]: Alternative phrase: the law may barely satisfies all parties ...

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Legal Documents

Law Number 10 the Year 2016 concerning the Second Amendment to Law Number 1 Year 2015 concerning the Stipulation of Government Regulations instead of Law Number 1 the Year 2014 concerning the Election of Governors, Regents, and Mayors to Become Laws

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Law Number 30 the Year 2014 concerning the Government Administration

Head of the National Civil Service Agency Letter Number K.26-30 IV.100-2|99. Concerning the Explanation of the Acting Regional Head's Personnel Authority

Revisions Form

This form should be fulfilled by the authors to respond suggestions of revision from the reviewers. In case the author decided not to accommodate the suggestion it should be listed below and explain the reason not to insert or revise the script. Please refer to the form from the reviewer and rewrite the comments from the reviewers along with the author's revision.

No.	Comments and Suggestion from Reviewers	Revision from Authors	Inserted in Page/Part:
1	The authors need to adjust the title to a brief and concise one representing the whole article's content	The tittle has been altered to : "Some Considerations on the Normative and Principle Antinomy of Law Due to The 2024 Simultaneous Local Head Election Policy"	1/tittle
2	the author could consider using "acting head of local government" rather than "temporary officials"	the term in question has been altered	Whole manuscript
3	the author needs to explain the research problem in the abstract section further	has been added and adjusted in the abstract section	1/abstract
4	the author could consider using the "head of local government" to cover the provincial and municipal levels	the term in question has been altered	Whole manuscript
5	the author needs to explain further the findings	has been added and adjusted in the abstract section	1/abstract
6	the author needs to reorder the keywords	the keyword has been adjusted	1/abstract
7	The author has to clarify the analysis of "Regional heads who should be able to serve for five years should be forced to step down and be replaced by acting regional heads for an extended period" please provide the sample in	The term "extended period" has been adjusted tp "remaining period" with an example in Makassar city.	3/Introduction (paragraph 4 of Page 3)

	one or two places.		
8	author has to prove the mentioned impacts in “However, a shorter term of office significantly impacts the development performance initiated by the regional head	has been added and adjusted in the Introduction section	4/Introduction (paragraph 2 of page 4)
9	The reviewer commented that it is less recommended to claim "no article" just because the previous studies barely used the term "antinomy"	Several previous studies has been added and adjusted in the Introduction section	4-5/Introduction)
10	The reviewers commented that the author must provide the reference in the sentence, “According to the Ministry of Home Affairs, more than 200 regional heads would be filled by temporary officials due to vacancies before the 2024 elections	references has been added and adjusted	9-10/Discussion sub 2
11	The reviewer suggests that the author rephrase the use of “not”,	Has been adjusted	Whole manuscript
12	The reviewer suggests that the author could consider using the words authorized, permitted, unauthorized, or prohibited	the term in question has been altered	10/Discussion sub 2
13	The reviewer asked why the author suggested the sociological consequences of the official's appointment	The reason has been added and explained	10/last paragraph
14	The reviewer suggests providing data to support the argument	The data has been provided and adjusted.	11/last paragraph

	on “The potential for horizontal conflict in the pre-and post-election periods was significant”		
15	The author could further explain the argument and any references within “Conflict escalation could have increased massively when it happened simultaneously in various regions” sentence.	The explanation and reference to support the argument has been added	11-12
16	the reviewer mainly suggests that the author provide data, principles, and theory on the concept that the author indicates in Table 1. sentence is confusing because the statement blend the budget contradict the term of service. The reviewer also suggests that the author justify that the aspects are "apple to apple" The reviewer also notes that the primary data sources used for Table 1 still need to be clarified.	The explanation and source of information in the table has been revised and adjusted.	12
17	the last paragraph of section C. Normative and Principle Antinomy in the National Simultaneous Regional Head Elections needs to be shorter and clearer to indicate the main explanation ideas	Some of The explanation in the paragraph has been revised and re-adjusted	8-10
18	The author must clarify and further analyze the comparative sample discussion in the last	The analysis has been updated and revised	14

	paragraph of section C.		
19	the author has not included the Constitutional Court decisions Number 143/PUU-XXI/2023 and 27/PUU-XXII/2024,	The suggested decisions has been included in the discussion.	3
20	The reviewer also recommended that the discussion of each topic be included in the discussion sub-chapters so that it is more straightforward and sharper	The structure has been adjusted to the journals template	Discussion section
21	the author needs to explain theoretically regarding the appointment of officials during the transition period as an implication of vacant positions, which clashes (an antinomy) with the theory of filling public positions, which must be done through elections. Some Acting Appointments do cause problems and have not been studied concretely, for example, in which regions Acting Appointments are problematic, including the need to add data on Acting Regional Heads who have outstanding achievements as an antinomy to the weaknesses of Acting Appointments. The reviewer also commented that the author needs to present data regarding the budget efficiency to be	Some of the suggestions has been accommodated in explicit and implicit way. some others cannot be accommodated due to the dense discussion and the limited number of words in the manuscript template.	Whole manuscript.

	achieved in the simultaneous regional head elections because the opposite is accurate so that it can be concluded whether the goal was realized. Regarding the synchronization of national policies, the article does not yet explain the period for preparing the RPJP and RPJMN as a form of antinomy or not with simultaneous regional elections		
22	The reviewer also suggests that the author could rephrase the sentence "In conclusion. The conclusion needs to indicate which type of antinomy is mainly reflected in the contradiction of discussed legal norms. The reviewer also suggests that the author must ensure the arguments' validity in the conclusion section.	The explanation in conclusion section has been revised and re-adjusted base on the comment.	15

By signing this document, the author declares that the author has made some revisions based on comments and suggestion from the reviewer.

Makassar, 24 Oktober 2024



(Rizki Ramadani, SH., MH.)

PADJADJARAN JOURNAL OF LAW
ARTICLE'S TEMPLATE

The Election of Contradictions: Analyzing the 2024 Simultaneous Regional Head Elections in Indonesia from an Antinomy Perspective
Some Considerations on the Normative and Principle Antinomy of Law Due to The 2024 Simultaneous Local Head Election Policy

Rizki Ramadani*, Muhammad Nur**, Wahida***, Muhammad Rinaldi Bima***

Abstract

Contrary to the previous conventional models of ~~regional~~local head elections conducted sequentially, the 2024 simultaneous ~~regional~~local head elections will be held on the same day nationwide. Simultaneous local elections should be held to increase stability and efficiency, but this has several consequences, including the vacancy of local head positions, which requires the appointment of an acting head, and even forcing several definitive local heads to resign before their term of office expires.~~This plan presents several issues including the appointment of temporary officials due to numerous vacancies in regional head positions and the shortening of the terms for various definitive leaders.~~ Therefore, this study ~~aimed~~aims to examine the contradictions in the 2024 simultaneous ~~regional~~local head election policies by using the antinomy perspective. Based on normative analysis of secondary data using statutory and conceptual ~~methods~~approaches, the study found that there were two ~~types~~forms of antinomies under the policy of simultaneous ~~regional~~local elections namely normative and principle antinomy of law. The normative antinomy of law arises from the contradiction between the provisions of Article 201, Paragraph (8) in Local Head Election Law which orders simultaneous local elections for government stability, and the provisions of Paragraph (9) which allow the appointment of acting heads of local government, which has the potential to cause administrative, political, and social instability. In this context, there is a paradox between the stability purpose and the instability impact of the 2024 simultaneous regional head elections policies, aimed to create government stability and budget efficiency. However, this objective of political stability possessed a greater risk of causing instability.~~The principle antinomy of law can be seen in the budget efficiency purpose (expediency principle), which also opposes the legal certainty principle due to the shortening of the definitive local head's fixed term of office established by law.~~The benefit from budget efficiency contradicted legal certainty principles due to the shortening of the regional head's fixed term of office which was considered a political right guaranteed by law. Based on this evidence, the analysis further ~~provide~~provides more understanding of the transition challenges from conventional to simultaneous local elections.

Keywords: ~~Regional Head Elections, Antinomy of Law, Contradiction~~Normative Antinomy of Law, Principle Antinomy of Law, Simultaneous Local Head Elections.

A. Introduction¹

Currently, elections are the main benchmark for the democratic practices of a country² as experts claim that holding fair elections can raise citizens' satisfaction with the system.³ This is supportive because people can vote based on political preferences and support the selected candidate until victory. In this regard, elections have become a catalyst for the realization of the representative function of democracy.⁴⁵ Therefore, direct elections (one person, one vote) are more

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² Toby S. James and Sead Alihodzic, "When Is It Democratic to Postpone an Election? Elections during Natural Disasters, Covid-19, and Emergency Situations," Election Law Journal: Rules, Politics, and Policy 19, no. 3 (2020): 344–62, <https://doi.org/10.1089/elj.2020.0642>.

³ André Blais, Alexandre Morin-Chassé, and Shane P. Singh, "Election Outcomes, Legislative Representation, and Satisfaction with Democracy," Party Politics 23, no. 2 (2017): 85–95, <https://doi.org/10.1177/1354068815583200>.

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widely accepted and favored than indirect. Correlating with Robert Dahl's assertion that democratic practices such as ~~voting elections and political parties~~ are more legitimate than others.⁶—This legitimacy ensures that everyone can voice ideas and receive equal treatment under the law.⁷

In Indonesia, the path toward democracy has become inextricably connected to elections. The rise of Indonesian democracy began with a constitutional amendment that allowed for direct general elections, even though democracy was usurped by the Old Order regime and transferred to the New Order regime.⁸ This transfer prompted power to be used in an oppressive and heavily centralized manner. ~~General elections are held directly, publicly, voluntarily, in strict confidence, honestly, and fairly every five years, as specified in Article 22E, Paragraph 1, of the 1945 Constitution.~~

~~Over the past three decades, most of the developing world has undertaken reform to decentralize the state and strengthen the responsiveness and effectiveness of local governance. Local elections have virtually always been an important part of the process.~~⁹ Over time, elections for ~~regional~~~~local~~—heads of government in Indonesia began to take place alongside those for the president and members of the legislature. Elections for ~~regional~~~~local~~—leaders—heads are held following the mandate of the constitution and statutory ~~requirements~~—to democratically elect governors at the provincial level as well as regents/mayors at the district and city levels. The majority of parties perceive this as evidence of the localization of democracy.¹⁰ ~~Currently, the government holds direct elections at both the national and regional levels regularly.~~

In this context, democracy development at the local level is part of the agendas pursued by many countries around the world, focusing on improving the quality of the ~~regional~~~~local~~ electoral system and process.¹¹ The same ~~was is~~ performed with the ~~regional~~~~local~~ head elections' system due to the various flaws according to the evaluation results including a high number of frauds¹², ~~corruption~~~~vote buying~~^{13,14}, money politics¹⁵, and strong patronage relationships between candidates and voters.¹⁶ ~~Corruption, collusion, and nepotism persist despite the existence of an independent institution for addressing these problems, namely the Corruption Eradication Commission.~~¹⁷—These ~~factors~~—~~issues~~

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¹⁶ Firman Noor et al., "The Implementation of Direct Local Election (Pilkada) and Money Politics Tendencies: The Current Indonesian Case," Politik Indonesia: Indonesian Political Science Review 6, no. 2 (2021): 227–46, <https://doi.org/10.15294/ipsr.v6i2.31438>.

¹⁷ Laurens Bakker, "Electoral Dynamics in Indonesia: Money Politics, Patronage, and Clientelism at the Grassroots," by Edward Aspinall and Mada Sukmajati (Eds.), "Bijdragen Tot de Taal-, Land- En Volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia 177, no. 1 (2021): 128–30, <https://doi.org/10.1163/22134379-17701002>.

¹⁸ Rizki Ramadani and Moch Andry W. W. Mamonto, "Independency of the Corruption Eradication Commission of the Republic of Indonesia (KPK RI) in Indicators of Independent Regulatory Agencies (IRAs)," Substantive Justice International Journal of Law 1, no. 2 (2018): 82, <https://doi.org/10.33096/substantivejustice.v1i2.18>.

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prompt ~~regional~~local head elections to be expensive and counterproductive to the development objectives.¹⁸

Along with the advancement of democracy and the national election system, the legal politics shifted to the simultaneous ~~regional~~local head elections model which is capable of saving costs compared to elections held on different days. By holding ~~regional~~local head elections simultaneously, it is expected that the state can save funds and minimize the negative effects of money circulation such as fraud and money politics. However, the outcomes of post-implementation evaluations for previous simultaneous ~~regional~~local head elections varied. Certain publications stated that the objectives of efficiency or savings were not achieved,¹⁹ while others claimed it was quite successful in saving election budgets in several regions.²⁰

An indicator that will facilitate these elections to be more efficient is when the election for governors, regents, and mayors takes place simultaneously in a province or even throughout Indonesia.²¹ Only in this manner can budget efficiency be achieved as each region will pay the election administrator's salary and logistics only once. However, there will be several ~~regional~~local heads whose terms of office will be reduced which will prompt the politicians to be more susceptible to resistance and polemic. The government, on the other hand, is convinced about holding simultaneous ~~regional~~local head elections across the country in November 2024. This is explicitly stated in Article 201, paragraph 8 of Law Number 10 of 2016 (Local Head Election Law). Consequently, election organizers should hold simultaneous gubernatorial elections in 33 provinces minus the Special Region of Yogyakarta and regent/mayor elections in 514 regencies/cities across Indonesia on November 24, 2024.

A legal consequence of the 2024 simultaneous ~~regional~~local head elections is that the terms of several politicians elected in 2020 will be shortened. In practice, ~~regional~~local heads elected in 2020 will serve for approximately 3.5 years or less, depending on the time of inauguration. In Lampung province, for example, seven ~~regional~~local heads were elected in 2021 making the term of office under threat of being reduced by two years.

The reduction in term of office for many ~~regional~~local heads due to the simultaneous ~~regional~~local head elections in 2024 is perceived unfavorably. ~~Regional~~Local heads who should be able to serve for five years should be forced to step down and be replaced by acting ~~regional~~local heads for an extended period. This case, for example, occurred in Makassar City, South Sulawesi Province. The Mayor and Deputy Mayor of Makassar, Moh. Ramdhan Pomanto and Fatmawati Rusdi are among the regional heads in South Sulawesi whose terms of office were shortened due to the implementation of the 2024 Simultaneous Regional Elections. As local heads elected from the 2020 local head elections, they should still serve as mayor and deputy mayor until 2025. However, the Local Election Law, particularly Article 201, Paragraphs (7) and (8), limits the term of office of the local head elected in the 2020 Simultaneous Regional Elections to only serve until December 31, 2024. Thus, there is a 1-year duration that is shortened from the five-year term of office as stipulated in Law Number 23 of 2014 concerning Regional Government.

Regarding the above matter, the Constitutional Court via Decision No. 27/PUU-XXII/2024, has altered the provisions in its decision by extending the term of office of regional heads and deputy regional heads resulting from the 2020 election from originally ending in December 2024 to ending when the new regional heads from the 2024 simultaneous regional elections are inaugurated. The exact time for the inauguration of regional heads has been regulated in Presidential Regulation Number 80 of 2024 concerning Amendments to Presidential Regulation Number 16 of 2016 concerning Procedures for the Inauguration of Governors and Deputy Governors, Regents, and

¹⁸ Agus-Riwanto, "The Construction of Law Neutrality of State Civil Apparatus in the Simultaneous Local Election in Indonesia," *Yuridika* 34, no. 2 (2019): 237, <https://doi.org/10.20473/ydk.v34i2.7926>.

¹⁹ Pangi Syarwi Chaniago, "Evaluasi Pilkada Pelaksanaan Pilkada Serentak Tahun 2015," *Politik Indonesia: Indonesian Political Science Review* 1, no. 2 (2016): 196, <https://doi.org/10.15294/jpi.v1i2.6585>.

²⁰ Rahmat Muhajir Nugroho and Anom Wahyu Asmorojati, "Simultaneous Local Election in Indonesia: Is It Really More Effective and Efficient?," *Jurnal Media Hukum* 26, no. 2 (2019): 213–22, <https://doi.org/10.18196/jmh.20190135>.

²¹ Chaniago, "Evaluasi Pilkada Pelaksanaan Pilkada Serentak Tahun 2015."

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Deputy Regents, and Mayors and Deputy Mayors. In the Regulation, the inauguration of provincial-level regional heads will be carried out simultaneously on February 7, 2025, while regional heads at the city and district levels will be carried out on February 10, 2025. However, there will still be a reduction in the term of office of regional heads who begin their term in 2020 and 2021.

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The five-year rule is considered ideal for developing the ~~region~~-local government through measurable policy programs. However, a shorter term of office significantly impacts the development performance initiated by the ~~regional~~local head. This is because the program, which was originally intended to be implemented by the regional head in five years, had to be discontinued because the local head's term of office ended prematurely. The leadership is then replaced by a new acting regional head so that it would have an impact on the sustainability and continuity of the policy. Research conducted on regional governments in Nigeria shows that the instability of the term of office of elected regional heads, including those caused by vacancies and the appointment of replacement officials (caretakers), has led to minimal accountability, high personnel costs, poor public services, weak political development and leadership, a lack of continuity, and poverty.²² In other words, the tenure of elected authorities must be stable in order for a democratic government to function. To promote political stability, consistency, and continuity, constitutional governments around the world require elected officials to serve for a specified period of office.²³

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The 2024 simultaneous local elections also impact the vacancy of ~~regional~~local heads whose terms expire during the year. In practice, hundreds of regions in Indonesia should be replaced with officials appointed by the government rather than the results of democratic elections in the years 2022 and 2023.

The issues raised show that the legal policy of simultaneous national and ~~regional~~local head elections is incoherent. However, there is a desire to create an efficient and effective electoral system which has to be accomplished despite shortening the term of office for ~~regional~~local heads and creating vacancies in several regions. These contradictory issues are intriguing to investigate from the standpoint of legal antinomy. In legal theory, antinomy is defined as a paradox, inconsistency, or discrepancy in the logic of a legal substance which includes a contradiction between two or more rules and legal principles about a specific condition and time.²⁴

Scholars have frequently applied antinomy theory to the study of legal and political phenomena. For instance, Alex Mills examined the contradiction between the Public and Private at the Foundations of International Investment Law sector.²⁵ The control of community participation rights which are handled inconsistently by laws and regulations in the environmental sector ~~was~~is also examined from this perspective.²⁶ Antinomy theory is further discussed by Mochtar in the context of Indonesian legislation.²⁷ Furthermore, Ramadani et al. evaluated the COVID-19 pandemic's ~~regional~~local head elections policy and discovered a legal antinomy between the realization of political obligations and the right to health.²⁸

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Based on the review of previous publications and a search of numerous additional works on comparable ~~subjects~~subjects, Several prior studies have identified a variety of significant issues

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²² Ugorji H.I., Ugwunneke J., and Nkwocha E.E., "The Implications of Political Tenure Instability of Elected Local Government Officials on Grassroots Development of Southeastern Nigeria," African Journal of Law, Political Research and Administration 5, no. 1 (2022): 84–93, <https://doi.org/10.52589/ajlpra-auty1n02>.

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²³ Miftah Thoha, Birokrasi Politik & Pemilihan Umum Di Indonesia, First Edit (Jakarta: Prenada Media, 2014), 3-4.

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²⁴ Luka Burazin, "Antinomies between Implicit Legal Principles: A Solution to the Total-Partial Antinomy," Courts, Interpretation, and The Rule Of Law," in Courts, Interpretation, and The Rule Of Law, ed. Miodrag A. Jovanović and Kenneth Einar Himma (Hague: Eleven International Publishing, 2014), 219.

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²⁵ Alex Mills, "Antinomies of Public and Private at the Foundations of International Investment Law and Arbitration," Journal of International Economic Law 14, no. 2 (2011): 469–503, <https://doi.org/10.1093/jiel/jgr020>.

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²⁶ Febriansyah Ramadhan and Ilham Dwi Rafiqi, "Antinomy of Community Participation Rights in the Law on the Environmental Sector," Jurnal Daulat Hukum 4, no. 3 (2021): 171, <https://doi.org/10.30659/jdh.v4i3.17212>.

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²⁷ Zainal Arifin Mochtar, "Antinomi Dalam Peraturan Perundang-Undangan Di Indonesia," Hasanuddin Law Review 1, no. 3 (2015): 316, <https://doi.org/10.20956/halrev.v1n3.112>.

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²⁸ Rizki Ramadani and Farah Syah Rezah, "Regional Head Election During COVID-19 Pandemic: The Antinomy in the Government Policies," Yuridika 36, no. 1 (2021): 213, <https://doi.org/10.20473/ydk.v36i1.23528>.

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surrounding the 2024 simultaneous regional elections and the appointment of acting regional chiefs. The results of the previous study reflect comparable findings and arguments, indicating that the appointment of the acting head of local government for Indonesia's 2024 simultaneous elections has produced various legal and procedural issues. According to Juanda and Juanda, while the actions taken by the government are in line with Article 201 of the Local Election Law, they potentially violate constitutional notions such as the rule of law, democracy, and local autonomy.²⁹ Rahmazani also revealed that the lack of precise standards guiding the nomination process has caused concerns of accountability and transparency.³⁰ Even an appointment of active military and police members as acting leaders is regarded to be illegal under many regulations, including those governing the armed forces and civil service.³¹ Overall, Riasri pointed out that the 2024 simultaneous local election policy had a significant impact on the Local Elections in 2017, 2018, and 2020. The initial impact, relating to the 2017 and 2018 Local Elections, involves the civil apparatus as Interim Regional Heads during the transition to the 2024 Simultaneous Local Elections. The second impact, notably for the 2020 Local Elections, reduces the Regional Head's term, which was initially intended to serve until 2026.³²

Some research also indicates that simultaneous local elections were implemented to reduce high political costs and improve efficiency, including in Indonesia.³³ For instance, in India, the proposed "One Nation, One Election" system is estimated to save over ₹45 billion annually.³⁴ However, local elections have always been associated with various forms of transactional politics. Indarti et al. argue that the high costs of contestation in local elections are attributed to oligarchic control of political parties and regulatory loopholes that favor candidates with significant financial resources.³⁵

Based on several existing studies, the legal antinomy perspective has not been properly utilized as a viable analytical tool to address the issues due to the simultaneous local head election policy. has addressed the contradictions in the policy of simultaneous regional head elections in 2024 from an anti-legal standpoint. Consequently, this problem presents a significant gap that has not been covered and provides an opportunity for the distinct analysis of two key issues. This research is a doctrinal legal study that uses a normative-conceptual approach and a case approach. The collection of primary legal materials is carried out by inventorying the laws and regulations related to the issues being studied, combined with a literature study of relevant literature and previous research results. The analysis is then presented using descriptive analytical techniques. The study questions include: (1) What kind of antinomy can originate from contradictory legal phenomena? and (2) What form of legal antinomy arises due to the 2024 national simultaneous regional election policy? How and to what extent does the legal antinomy affect the policy for the simultaneous regional head elections in 2024? Based on these discoveries purposes, the study objective is not to directly solve the problems raised by simultaneous local head election

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²⁹ Juanda Juanda and Ogiandhafiz Juanda, "Pengangkatan Penjabat Kepala Daerah Menghadapi Pilkada Serentak 2024 Dalam Perspektif Hukum Tata Negara," Jurnal Keamanan Nasional 8, no. 1 (2022): 192–219, <https://doi.org/10.31599/jkn.v8i1.534>.

³⁰ Rahmazani, "The Problems of Appointment Acting Officer of Regional Head in the Transition Period Before the Election of 2024," Jurnal Konstitusi 20, no. 2 (2023): 196–215, <https://doi.org/10.31078/jk2022>.

³¹ Muhammad Fajar Sadiq and Amalia Diamantina et al., "Appointment of Members of the Indonesian National Army as Acting Regional Heads in the Face of Simultaneous Regional Elections in 2024," International Journal of Social Science and Human Research 7, no. 05 (2024): 3510–18, <https://doi.org/10.47191/ijsshr/v7-i05-125>.

³² Riasri Haryani, "The Implementation of Simultaneous Local Elections: An Overview of Constitutional Law and Its Impact on Democracy in Indonesia," SIGn Jurnal Hukum 5, no. 1 (2023): 102–13, <https://doi.org/https://doi.org/10.37276/sjh.v5i1.262>.

³³ Ilham Dwi Rafiqi Sirajuddin, Febriansyah Ramadhan, "Urgensi Pemisahan Penyelenggaraan Pemilihan Umum Serentak Nasional Dan Lokal," Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi 4, no. 2 (2021): 233–48, <https://doi.org/10.24090/volksgeist.v4i2.5232>.

³⁴ Arti Bhatnagar, "Issue of 'One Nation, One Election' in Indian Perspective," International Journal For Multidisciplinary Research 6, no. 1 (2024): 1–5, <https://doi.org/10.36948/ijfmr.2024.v06i01.13626>.

³⁵ Sitti Aminah et al., "The High Political Costs in Local Head Election (Case Study in Indonesia)," European Journal of Molecular and Clinical Medicine 7, no. 11 (2020): 653–82.

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laws but rather to point out the legal antinomies these policies breach to establish a foundation upon which recommendations can be facilitated.

B. "Normative" and "Principle" Antinomy of Law and The Simultaneous Local Head Election Policy

1. The Normative and Principle Antinomy of Law: An Overview

B.

A legal norm either in the form of a regulation, decree, or decision frequently ~~contained~~ contains contradictions or paradoxes that ~~affected~~ affect the interpretation, intent, or potential legal implications of the policy. In ~~the law-general theory of law~~ science, this phenomenon ~~was~~ is known as the antinomy of law.³⁶ ~~As the word, which joins the Greek *anti* (opposed to) and *nomos* (law) suggests, "antinomy refers to incompatibility of what appear to be two well-founded positions."~~ By definition, antinomy represented a circumstance that contradicted itself (a debate between elements) but could not be divided because both depended on each other. The concept of Immanuel Kant in the age-old struggle between reason and nature served as the epistemological foundation for the antinomy theory. Kant applied this logic to the greatest works titled "Critique of Pure Reason" which contained analysis of the fundamental contradictions.³⁸ This contradiction significantly impacted the manner of legal reasoning which constantly pursued and maintained an equilibrium point in every situation. ~~The idea of antinomy in law evolved as a "contrast concept," which served as the foundation for analyzing the norms and principles in a legal system.~~

Examining several studies on antinomy in law, a minimum of two types of legal antinomy based on nature were identified namely "normative" and "principle" antinomy of law. ~~Pinet stated that the antinomy of law can be recognized from conflicting norms and conflicting values in law.~~³⁹ In the first form, antinomy originated from a legal norm implemented in a factual situation where the ~~provision~~ or application contradicted other regulations. Contradictions ~~arise~~ in this situation due to differences between one rule and another within the same legal sector. For example, a juridical-normative nature was observed in a study conducted by Febriyanti et al regarding the legal policy on the use of foreign workers in Government Regulation Number 34 of 2021.⁴⁰ Several provisions in government regulations were also considered to ease the path for foreign workers to enter the country, contradicting several labor law regulations that limited the use of foreign workers to safeguard the rights of domestic employees. In this instance, a contradiction existed between legal rules that preserved local employees' opportunities and those favoring foreign investment and calling for convenient access.

Another example ~~was~~ is the simultaneous ~~regional~~ local head elections conducted in 2021 during the COVID-19 epidemic. There was a contradiction between the legal rules for conducting ~~regional~~ local head elections which unavoidably led to crowds, and the rules for social restrictions prohibiting crowds (physical distancing). The contradicting norms ranged from constitutional provisions (political obligations vs. the right to health) to organic laws and technical regulations such as the Minister of Health vis-a-vis General Election Commission Regulations.⁴¹ ~~This type of antinomy arose due to the nature of the law which was essentially a political product formed through a~~

³⁶ Joao Christofolo, Solving Antinomies Between Peremptory Norms in Public International Law, Schulthess Éditions Romandes, First Edit, vol. 30 (Geneve: Schulthess Éditions Romandes, 2016), 5.

³⁷ Karsten Harries, The Antinomy of Being, First Edit (New Haven, USA: De Gruyter, 2019), 1, <https://doi.org/https://doi.org/10.1515/9783110629323>.

³⁸ Silvia De Bianchi, "When Series Go in Indefinitum, Ad Infinitum and in Infinitum Concepts of Infinity in Kant's Antinomy of Pure Reason," Synthese 192, no. 8 (2015): 2395–~~2412~~, <https://doi.org/10.1007/s11229-015-0813-2>.

³⁹ Sandrine Chassagnard-Pinet, "Conflict of Norms and Conflict of Values in Law," in Logic, Argumentation & Reasoning: Interdisciplinary Perspectives from the Humanities and Social Sciences, ed. Matthias Armgardt, Patrice Canivez, and Sandrine Chassagnard-Pinet (New York: Springer, 2015), 237~~5~~, <https://doi.org/DOI.10.1007/978-3-319-16021-4>.

⁴⁰ Khairina Febriyanti, Irma Suryani, Zainuddin, "Kontradiksi Peraturan Pemerintah Nomor 34 Tahun 2021 Tentang Penggunaan Tenaga Kerja Asing," Jurnal Integrasi Ilmu Syari'ah 3, no. 3 (2022): 497–~~509~~, <https://doi.org/http://dx.doi.org/10.31958/jisrah.v3i3.8395>.

⁴¹ Ramadani and Rezah, "Regional Head Election During COVID-19 Pandemic: The Antinomy in the Government Policies."

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~~process of negotiation and consolidation of various interests.~~ This necessitated the existence of legal norms between two or more competing interests but the law could not satisfy all of the interests.

Antinomy ~~in-of~~ law could ~~also~~ occur at the level of legal principles which were more philosophical and fundamental. ~~At this level~~~~This form of~~, antinomy ~~was-is~~ reflected in the contradiction between the principles of legality, *rechtweigerig*, and judicial freedom in the context of legal construction by judges.⁴² According to the consensus among jurists, the legality concept served as a key tenet in applying criminal law and guiding judges in rendering judgments. A positivistic interpretation of this principle emphasized that judges only served as *boucha de loi*, or spokespersons for the legal provisions.⁴³ Judges ~~were-are~~ not allowed to interpret clear laws or formulate analogies except in the common law tradition.⁴⁴ However, this contradicted the principle that a judge may not dismiss a case due to the absence of governing law. When the legality principle forbade judges from thinking independently when constructing laws, the *rechtweigerig* policy motivated judges to find laws using personal methods, especially when it was relevant to the principle of judge independence.

The Indonesian Supreme Court's jurisdiction to review statutory regulations under the legislation also represented antinomy. When the Supreme Court was granted the authority to conduct judicial review of laws and regulations, the only objection initially surfaced was that the authority should be granted to the Constitutional Court since it was more pertinent to the matter of reviewing legislation (*toetsingrecht*) while the Supreme Court should concentrate solely on law enforcement.⁴⁵ Several issues arose over time including the duality of reviewing ~~regional~~~~local~~ regulations by the Government (executive review) and the Supreme Court (judicial review). Furthermore, issues arose when the Supreme Court was required to review regulations originating from the legal products, i.e., the Supreme Court Regulations.⁴⁶ In this context, there was a contradiction between the principle of "*ius curia novit*," which demanded the Supreme Court proceed to examine the appeal, and the policy of "*nemo iudex idoneus in propria causa*" prohibiting judges from handling cases personally engaged.

Principle antinomy of law could be caused by attempting to realize more than one legal principle simultaneously, especially when some of these policies contained objectives that contradicted one another. This was reflected in Gustav Radbruch's classic theory of legal ideals (*idee des rechts*), conceived on three principles namely expediency (*zweckmassigkeit*), justice (*gerechtigkeit*), and legal certainty (*rechtssicherheit*).⁴⁷ The theory adhered to the dictum that an ideal law could achieve all three principles simultaneously, even though in reality it sounded rather utopian.

Empirically, finding examples was easier where the objectives of the law contradicted each other in application. This was reflected among other aspects in the case of agrarian conflict resolution between community farmer groups and large private companies in OKI Regency regarding land use. In Decision Number 06/Pdt.G/2014/PN. Kag, the judge rejected the counterclaim from the farmers because the lawsuit was slanderous. This case showed that formal principles in law could override aspects of justice and expediency.

Principle Antinomy of Law ~~was-is~~ further represented in the competition between the two popular schools of law namely the streams of judicial activism vs. self-restraint.⁴⁸ In the Indonesian context, the contradiction between these theories became a central topic in the debate over Constitutional Court judges' decisions in examining laws that violated the Constitution. The

⁴² E. Nurhaini Butarbutar, "Antinomi Dalam Penerapan Asas Legalitas Dalam Proses Penemuan Hukum," *Yustisia Jurnal Hukum* 1, no. 1 (2012): 145–57, <https://doi.org/10.20961/yustisia.v1i1.10614>.

⁴³ Anggita Lumbanraja, Yusriadi Yusriadi, and Shidarta Shidarta, "Legal Interpretation in Judicial Decision-Making on Environmental Cases: Judges in the Domination of Civil Law System," 2023, <https://doi.org/10.4108/eai.27-7-2022-2326268>.

⁴⁴ Adam Rigoni, "Common-Law Judicial Reasoning and Analogy," *Legal Theory* 20, no. 2 (2014): 133–56, <https://doi.org/10.1017/S1352325214000044>.

⁴⁵ Simon Butt, "Judicial Reasoning and Review in the Indonesian Supreme Court," *Asian Journal of Law and Society* 6, no. August 2018 (2019): 67–97, <https://doi.org/10.1017/als.2018.26>.

⁴⁶ Safudin Endrik, "Harmonisasi Hukum Dalam Antinomi Hukum (Analisis Terhadap Penerapan Pasal 20 Ayat 2 Huruf B Undang-Undang Republik Indonesia Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman)," *Al-Syakhsyiyah Journal of Law & Family Studies* 2, no. 2 (2020): 202–29.

⁴⁷ John Kenedi, "Justification-Justification Of Pancasila Law State As An Effort To Realize Indonesian Progressive Law" 15, no. 2 (2022): 172–93, <https://doi.org/10.2478/bjlp-2022-001011>.

⁴⁸ Françoise Tulkens, "Judicial Activism v Judicial Restraint: Practical Experience of This (False) Dilemma at the European Court of Human Rights," *European Convention on Human Rights Law Review* 3, no. 3 (2022): 293–309, <https://doi.org/10.1163/26663236-bja10048>.

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Constitutional Court with the authority to overturn laws held the position of a negative legislature ⁴⁹ contrasting with the executive and legislative bodies as positive. Over time, the Constitutional Court frequently issued decisions that exceeded the authority ~~as of~~ a negative legislator making decisions and formulating new norms (positive legislators)⁵⁰. This led to an unfavorable relationship between the judiciary and the legislature, particularly due to the lack of limits on the powers of the Constitutional Court in examining laws. The type of judicial activism was often lauded for attempting to fulfill substantive justice rather than merely procedural justice⁵¹. However, this practice frequently led to deadlocks in constitutional issues such as filling legal gaps (*rechtsvacuum*) and upholding societal justice.⁵²

The preceding examples of principle antinomy appeared to show the inherent nature of laws that might contain a contradiction. According to Friedmann as quoted by Mochtar, the condition was because doctrines in the science of law were compiled based on philosophical reasoning which was relative when rational⁵³. Furthermore, W. Friedmann stated that legal theory possessed a minimum of eight antinomies namely (1) individual and universe, (2) volunteering and objective knowledge, (3) reason and intuition, (4) stability and change, (5) positivism and idealism, (6) collectivism and individualism, (7) democracy and autocracy, as well as (8) internationalism and nationalism.⁵⁴

The main difference between principle and normative antinomy was that contradiction in the domain of statutory regulations could still be resolved with relevant legal principles and/or theories. For example, conflicts between one law and another could be resolved by harmonization theory. When regulatory conflicts occurred between lower and higher regulations, vertical harmonization was carried out based on the principle of *lex superior derogate legi inferior* (higher law overcomes lower law). In this context, legal principles served to determine the area of application of rules in the interpretation or discovery, rules uniting legal principles, and policies maintaining the consistency and coherence of legal rules, among other things.

Antinomy in the context of meta-juridical principles and theories differs as no practical solution ~~existed-exists~~ for addressing these issues. Different paradigms for understanding the law were typically the root cause of conflicts at the level of legal theory and principles. This paradigm shift was the outcome of historical arguments between various legal schools including legal positivism which emphasized the consistency of the natural law, exalting justice as the fundamental of the law.⁵⁵ Similar aspects could be said for legal institutions during the postmodernist age such as the critical legal studies movement, whose perspectives were constantly critical and incisive by viewing law not as a value-free order but rather as a complex system of interests and hegemony.⁵⁶ ~~This most contemporary paradigm had made significant contributions to showing the illogic of existing laws.~~

~~C.2. Normative and Principle Antinomy in the~~ **The 2024 National-Simultaneous RegionalLocal Head Elections: Conflicting Norms and Principles**

In Indonesia, a series of simultaneous ~~regionallocal~~ head elections were held in several batches beginning in December 2015 for all leaders whose terms of office officially ended that year. However, 33 provinces (governors), 30 cities (mayors), and 224 districts (regents) participated in the

⁴⁹ Lidia Oshlyansky and Paul Cairns, "The Challenges Faced by Academia Preparing Students for Industry: W Hat W e Teach and W Hat W e D O" 17, no. 1988 (1904): 203-4.

⁵⁰ Laurence Claus and Richard Kay, "Constitutional Courts as 'Positive Legislators' in the United States," American Journal of Comparative Law 58, no. 1 (2010): 479-504, <https://doi.org/10.5131/ajcl.2009.0018>; Risdiana Izzaty and Xavier Nugraha, "Perwujudan Pemilu Yang Luberjurdil Melalui Validitas Daftar Pemilih Tetap," Jurnal Suara Hukum 1, no. 2 (2019): 155, <https://doi.org/10.26740/jsh.v1n2.p155-171>.

⁵¹ Rahayu Prasetyaningih, "Judicial Activism in Indonesia: Constitutional Culture by the Constitutional Court," Jurnal Kajian Ilmu Hukum Dan Syariah 5, no. 2 (2020): 168-77.

⁵² Indriati Amarini, "Implementation of Judicial Activism in Judge'S Decision," Jurnal Hukum Dan Peradilan 8, no. 1 (2019): 21, <https://doi.org/10.25216/jhp.8.1.2019.21-38>.

⁵³ Mochtar, "Antinomi Dalam Peraturan Perundang-Undangan Di Indonesia."

⁵⁴ Ramadani and Rezah, "Regional Head Election During COVID-19 Pandemic: The Antinomy in the Government Policies."

⁵⁵ Brian Flanagan and Ivar R. Hannikainen, "The Folk Concept of Law: Law Is Intrinsically Moral," Australasian Journal of Philosophy 100, no. 1 (2022): 165-79, <https://doi.org/10.1080/00048402.2020.1833953>.

⁵⁶ Juhana Salojärvi, "A Counter-Culture of Law: Jurisprudential Change and the Intellectual Origins of the Critical Legal Studies Movement," American Journal of Legal History 59, no. 4 (2019): 409-43, <https://doi.org/10.1093/ajlh/njz022>.

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2015 simultaneous local elections. In 2017, 7 provinces, 18 cities, and 76 regencies held the elections for ~~regional~~local heads whose terms of office ended during that period. The third round of ~~regional~~local elections should have been held in September 2020 before the arrival of the COVID-19 pandemic. Despite being postponed until 2021, the elections were held in December 2020 in 270 regions (9 provinces, 224 districts, and 37 Cities). Although the elections were conducted simultaneously, ~~it-they~~ still varied in timing due to differences in the commencement and end of the ~~regional~~local government periods across Indonesia.

Similar to the previous model, the 2024 simultaneous ~~regional~~local head elections were scheduled to be held in all regions of Indonesia ~~includng-including~~ the 34 provinces as well as 514 districts and cities. The election was set for November 24, 2024, ensuring that all regions participated on the same day. ~~In the same year, s~~Simultaneous general elections to elect a president and vice president, members of the People's Representative Council (DPR) of Indonesia, the ~~Regional~~Local Representative Council (DPD) of Indonesia, as well as provincial and district/city ~~regional~~local people's representative councils (DPRD) were scheduled for February 14, ~~2024~~. This would be the first and largest synchronized election in Indonesia, as elections and local elections have never been held in the same year simultaneously before.

Legal politics serving as a basic justification for this policy could be broken down into two categories namely the desire to create political stability and the need to minimize election costs. The General Election Commission expressed that simultaneous local and general elections aimed to foster political conditions conducive to overall governmental stability. The Commission which was the authority in charge of administering elections expressed this opinion. According to Hasyim Asy'ari who was the Head of the General Election Commission, elections were primarily intended to form a government at the national and ~~regional~~local levels by filling out vacancies in each cabinet. Therefore, synchronizing elections with ~~regional~~local elections led to a stable government because it had institutionalized time by having both the central and ~~regional~~local governments begin the five-year terms simultaneously.

In this context, the relevance of the argument that simultaneous local elections could create better governance stability conceptually was questionable. This was because the stability of government was the expected effect of the simultaneous design of general elections (executive and legislative elections).⁵⁷ The essence of this election design was to hold legislative and executive elections on the same day for a congruent government to be established, i.e., the election of executive officials (President and Vice President) who have the support of a legislative majority. This governance pattern would have a significant effect on governmental stability⁵⁸ which was the basis for the claim that simultaneous elections could strengthen the presidential system.⁵⁹⁶⁰ In contrast, the theoretical stability of government was an expected effect of simultaneous presidential and legislative and not the ~~regional~~local head elections.

Even when the rationalization of the 2024 simultaneous local elections to create governmental stability was accepted, it would lead to a contradiction. Theoretically, simultaneous ~~regional~~local elections were held to create stability in government by allowing officials to begin ~~the-their~~ terms of office at the same time. However, the study also recognized that the 2024 simultaneous local election policy ~~have-has~~ generated vacancies in many regions. According to the Ministry of Home Affairs, more than 200 ~~regional~~local heads would be filled by ~~temporary-officials~~acting heads of local government due to vacancies before the 2024 elections. In 2022, ~~the acting head of local government temporary-officials~~ filled 101 ~~regional-local~~ heads positions including 76 regents, 18

⁵⁷ Moh. Ilham A. Hamudy and M. Saidi Rifki, "Strengthening the Multi-Party Presidential Government in Indonesia," Politik Indonesia: Indonesian Political Science Review 4, no. 2 (2019): 208–32, <https://doi.org/10.15294/ipsr.v4i2.18447>.

⁵⁸ Rizki Bagus Prasetyo and Febri Sianipar, "The Relevance of the Application of the Presidential Threshold and the Implementation of Simultaneous Elections in Indonesia," Jurnal Penelitian Hukum De Jure 21, no. 2 (2021): 267, <https://doi.org/10.30641/dejure.2021.v21.267-284>.

⁵⁹ Iding Rosyidin, "Strengthening Democratic Institution and the Need for Political Literacy An Evaluation to the Simultaneous Election in Indonesia" (Atlantis Press, 2018), 204–6, <https://doi.org/10.2991/icpsps-17.2018.43>.

⁶⁰ Iding Rosyidin, "The Simultaneous Election in Indonesia : Problems and Solution," no. January (2018), <https://doi.org/10.2991/icpsps-17.2018.43>.

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mayors, and 7 governors.⁶¹ No fewer than 171 heads from the 2018 ~~regional-local~~ elections ~~would~~ will also be leaving office in 2023.⁶² Details on 38 mayors, 115 regents, and 18 governors were included in this figure.⁶³ Based on this evidence, the first antinomy in the simultaneous local election policy was the conflict between the objective of simultaneous ~~regional-local~~ elections to create government stability and the instability caused by many vacancies in the head position.

There were consequences despite Article 201 paragraph (9) of Law number 10 of 2016 allowing the appointment of acting ~~regional-local~~ heads whose terms ended in 2022 and 2023. The appointment of officials to replace ~~regional-local~~ heads ~~have-has~~ a minimum of three consequences namely administrative, political, and sociological consequences. From an administrative standpoint, the presence of an official was intended to allow the continuation of the government administration but this ~~do-never suggests not-imply~~ that the process would be smooth. ~~DespitingDespite~~ having an equal legal basis, ~~The acting local head's authority had difficulty being the same as the definitive leaderthe acting regional head's authority was not identical to the definitive leader.~~ Furthermore, there are various limitations on what acting heads are authorized and prohibited from doing. Furthermore, there were several restrictions on what officials could and could not do. Some of these aspects were quite strategic with the potential to impede government operations which included the authority to appoint, transfer, and dismiss officials within the regional government, among other things. The restrictions were stated in the Head of the National Civil Service Agency Letter Number K.26-30 IV.100-2|99 Concerning the Explanation of the Acting ~~RegionalLocal~~ Head's Personnel Authority. The policy explained that the Acting ~~RegionalLocal~~ Head ~~was-is prohibitednot authorized to makefrom making~~ decisions with legal consequences (civil effect) on staffing aspects such as appointments, transfers, and dismissals in/from civil apparatus positions unless written approval from the Minister ~~of Home Affairs~~ was obtained.

The aforementioned subject is particularly essential to examine, given that the appointment of the acting head is a consequence of the government's plan to hold simultaneous regional elections in 2024. The government believes that appointing temporary heads is a practical solution to the vacancies resulting from the scheduling of simultaneous regional elections. This decision has the potential to spawn new problems, such as instability in government and stagnation, as well as dissatisfaction with public services, whereas government stability is very much determined by officials who receive public support (legitimacy).⁶⁴ Many Research suggest that the replacement of local officials can indeed lead to government instability and potentially violate principles of effective governance and professionalism.⁶⁵ Others claim that instability is exacerbated by the absence of public participation in the selection of acting heads of local government, implying extensive centralization policies that weaken local autonomy.⁶⁶ Zhoe & Deng, for example, point out how

⁶¹ Dania Shofi Maziyah et al., "Implementation Of Good Governance In The Appointment Of Regional Acting Heads," Santhet: Jurnal Sejarah, Pendidikan Dan Humaniora 8, no. 2 (2024): 12301-9, <https://doi.org/10.36526/js.v3i2.4109>.

⁶² Emmanuel Ariananto et al., "Reflections and Expectations of Democracy in The Implementation of Regional Autonomy : Long - Term Potential for Appointment of Acting Regional Heads," PLEDOI (Jurnal Hukum Dan Keadilan) 2, no. 1 (2023): 50-68, <https://doi.org/10.56721/pledoid.v2i1.184>.

⁶³ Halimah Humayrah Tuanaya, "Kedudukan Hukum Penunjukan Aparatur Sipil Negara Sebagai Pengganti Kepala Daerah Dalam Otonomi Daerah Pasca Putusan Mahkamah Konstitusi NO. 67/PUU-XIX/2021 20 April 2021," Rechtsvinding 11, no. 2 (2022): 229-45; See also Mahatma Chryshna, "Kepala Daerah Habis Masa Jabatan 2022, 2023, Dan 2024," Kompaspedia, April 2022.

⁶⁴ M. Zubakhrum B. Tjenreng, Demokrasi Di Indonesia Melalui Pilkada Serentak, First Edit (Jakarta: Papas Sinar Sinanti, 2020), 54.

⁶⁵ Abdul Azis Hasan, "Pemerintahan Pada Masa Transisi Pergantian Kepala DaerahDalam Perspektif Otonomi Daerah," Jurnal Akta Yudisia 5, no. 2 (2021): 138, <https://doi.org/10.35334/ay.v5i2.1913>.

⁶⁶ Muhammad Syaiful Anwar, Rafiqah Sari, and Ndaru Satrio, "Sistem Penunjukan Penjabat Kepala Daerah Dalam Perspektif Teori Pengisian Jabatan," Jurnal Hukum In Concreto 3, no. 1 (2024): 72-84, <https://doi.org/10.35960/inconcreto.v3i1.1362>.

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frequent turnover of officials negatively impacts environmental quality, particularly when officials are transferred from the central government.⁶⁷

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The observed limitation also correlated with the provisions of Article 14 paragraph (7) of Law Number 30 of 2014 concerning Government Administration stating that Government Agencies and/or Officials who obtained authority through mandates were not authorized to make decisions and/or actions impacting changes in organizational structure, staffing, and budget allocation. Consequently, officials could not prepare the regional/local medium-term development plan (RPJMD) documents as stipulated in regional/local regulations. This was because the RPJMD contained an elaboration of the vision and mission of the elected regional/local head whose validity period, the validity period of which was five years or concurrent with the term of office of the leader concerned. Furthermore, officials were not authorized to set the vision and mission. In practice, this hindered regional/local expenditure activities and financial management which had to refer to the RPJMD document.

In terms of political implications, the placement of acting regional/local heads or temporary officials was vulnerable to introducing certain political interests. There was also speculation about the potential for re-centralization with many officials elected and appointed by the central government. This included the assumption of non-neutrality of officials and the discourse on the appointment of members of the Indonesian National Police as well as the Armed Forces to fill the vacant positions. For example, in West Bandung Regency, officials formulated the vision and mission as well as the Long Term Development Plan (RPJP) which served as the definitive regional/local plan. The RPJP was further haphazardly outlined in a Regent's Regulation which should be in the form of a regional/local regulation. Similar to the Pangandaran Regency, the executor of the task of the regent intensively managed the bureaucracy and rotated positions beyond the authority.⁶⁸

Administrative and political implications had an impact on serving the needs of the community in the regions (social implications). Obstacles to regional/local spending undoubtedly impacted meeting people's needs.⁶⁹ Furthermore, officials full of political interests could trigger public discontent and distrust⁷⁰, risking public disobedience and even horizontal conflict. For example, in 2022, the Jakarta Legal Aid Institute (LBH) sued the President and the Minister of Home Affairs (Mendagri) to the State Administrative Court (PTUN) due to alleged unlawful acts by the authorities (Onrechtmatige Overheidsdaad) when the government carried out a series of appointments and inaugurations of a number of acting regional heads. Previously, Banten residents also sued the appointment of regional heads, to the polemic of the Governor of Southeast Sulawesi, who refused to inaugurate acting regents/mayors. The same phenomenon also occurred in Aceh Province, where the Civil Society Coalition sued the actions of the President and the Minister of Home Affairs, who appointed and inaugurated Major General (Ret.) Achmad Marzuki as Acting Governor.

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The potential for horizontal conflict in the pre-and post-election periods is also worth considering. So far, there have been several regions that have a high election vulnerability index (IKP). The Chairman of the Republic of Indonesia's Election Supervisory Body (Bawaslu RI) recognized this, pointing out that the 2024 Simultaneous Local Head Elections are more vulnerable than the 2024 General Election. Bawaslu has found 1,952 vulnerabilities, however, this is only an estimation;

⁶⁷ Ming ZHOU and Li-Ying DENG, "Officials' Turnover, Promotion Incentives and Environmental Quality-Evidence from Provincial Government Leaders in China" 281, no. Sschd 2018 (2019): 438-47, <https://doi.org/10.2991/sschd-18.2019.80>.

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⁶⁸ Nandang Alamsah Deliarnoor, "Problematisasi Pelaksanaan Tugas (Plt) Dalam Masa Transisi Pemerintahan (Pra Dan Pasca Pilkada Serentak)," CosmoGov 1, no. 2 (2017): 322, <https://doi.org/10.24198/cosmogov.v1i2.11841>.

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⁶⁹ Ferensky Regina Sandjaja, Ferinda Nafisa, and Ita Nurmanti Manurung, "The Impact of Fiscal Decentralization on Welfare in Selected Provinces in Indonesia," Jurnal Bina Praja 12, no. 1 (2020): 21-34, <https://doi.org/10.21787/jbp.12.2020.21-31>.

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⁷⁰ Abustan, "Implementasi Demokrasi Dan Legitimasi Penjabat Kepala Daerah Di Indonesia Abustan," Indonesia Law Reform Journal 2, no. 3 (2022): 274-87, <https://doi.org/10.31571/edukasi.v19i2.2901>.

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the number could be larger in the field.⁷¹ The Indonesian National Army (TNI) Strategic Intelligence Agency (BAIS) said that vulnerability is expected to increase in 15 areas with high levels of vulnerability, such as Aceh and Papua.⁷² The potential for horizontal conflict in the pre and post-election periods was significant. Conflict escalation could have increased massively when it happened simultaneously in various regions. This further reinforced the concern that the simultaneous regional head elections which were intended to support government stability would disrupt government operations and interfere with preparations for the elections.

Based on the foregoing explanation, it is reasonable to say that the 2024 simultaneous regional election policy conceives an antinomy of law. This antinomy results from both conflicts in legal norms (normative antinomy of law) and contradictions at the level of legal principles (principle antinomy of law). In summary, the existing inconsistencies are shown in the following table:

Table 1: Antinomy in 2024 Regional/Local Head Elections

No.	Type of Antinomy	Explanation
1	Normative (Government Stability vs. Administrative, Political and Social Instability)	Simultaneous regional/local head elections based on Article 201 paragraph (8) of the Regional/Local Head Elections Law aimed to create government stability but the appointment of acting head of local government temporary officials acting as regional heads in various regions based on Article 201 paragraph (9) have has the potential to cause administrative, political, and social instability instead. This is caused by several things: 1) the appointment mechanism that shows a centralistic pattern and interests; 2) the limited authority of the acting head of local government, which has the potential to cause government stagnation; 3) the high election vulnerability index in various regions, which has the potential to escalate if it occurs simultaneously.
2	Principle (Budget efficiency/ Expediency vs. term of office reduction/legal certainty)	The simultaneous local head election policy is aimed at budget efficiency, which is in line with the principle of utility/expediency. However, this is not in line with other consequences that arise, where there is a reduction in the term of office of several regional heads who are forced to resign before their term of office ends in 2025. In essence, the term of office of a regional head is the right of an elected regional head, which is guaranteed by law. So a reduction to it, on any basis, is a violation of the principle of legal certainty. Simultaneous local elections based on the Regional Head Elections Law were aimed at budget efficiency (legal utility/purposiveness) but shortened the term of office of the regional head guaranteed by the law (legal certainty).

Source: Analyzed from the primary and secondary sources.

⁷¹ Badan Pengawas Pemilihan Umum Republik Indonesia, Indeks Kerawanan Pemilu 2024, ed. Tim Editor Bawaslu RI, Indeks Kerawanan Pemilu Dan Pemilihan Serentak 2024, Cetakan Pertama (Jakarta Pusat: Badan Pengawas Pemilihan Umum Republik Indonesia, 2024).

⁷² Aryo Wasisto, "Komitmen Mitigasi Kerawanan Pilkada Serentak 2024," Isu Sepekan, Bidang Polhukam, Komisi II (Jakarta, 2024).

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Commented [MCis1]: The author understands the reviewer's comment and makes some adjustments, although there are differences in the matter of "apple to apple" perspective. In the discussion, the author has emphasized that one of the goals of the 2024 simultaneous regional elections is budget efficiency, which was also a claim by the government at that time even though it has not been proven. Thus, it can be said that the government is also oriented towards the benefit aspect of legal policy, namely budget savings. However, the author believes that this goal is actually contrary to the principle of legal certainty which was violated by the government when it forced to cut the term of office of local heads (between 1-2 years), particularly those who were elected in the 2020-2021 regional elections).

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Table 1 showed that in addition to the paradox between the stability purpose and the instability impact of the 2024 simultaneous ~~regional~~local elections, there was also an antinomy between efforts to increase efficiency or save the budget as well as the shortening of ~~regional~~local heads' terms of office. As stated previously, part of the main objectives of designing simultaneous elections was to maximize state budget efficiency. The objective was stated by DPR Commission II member Luqman Hakim stating that the government supported the simultaneous ~~regional~~local election policy to carry out efficiency and refocus part of the election budget on handling the impact of the COVID-19 pandemic, such as enhancing poverty and unemployment. This further implied that the purposefulness aspect was the main consideration in the legal politics of the 2024 simultaneous local elections. However, the objective was contradictory to the reduction in the term of office of ~~regional~~local heads who had not finished the period but were required to finish and take part in the upcoming elections. The law further guaranteed ~~regional~~local heads five years of service. In other words, there had been an antinomy between the principles of expediency (efficiency efforts) and legal certainty (five years of service).

Indonesian laws and regulations ~~guaranteed-guarantee~~ a fixed term of office for ~~regional~~local heads. This was explicitly stated in Article 162 paragraphs (1) and (2) of Law Number 10 of 2016 and Article 60 of Law Number 23 of 2014 concerning ~~regional~~local government. The Article stated that the term of office for ~~regional~~local heads was 5 years from the date of inauguration. However, ~~regional~~local heads who started the terms of office in 2020 and 2021 would experience a 1-2 year cut with the agreement on the simultaneous ~~regional~~local elections in November 2024 as stated in Law 10/2016. This gave rise to "ended" and "finished" terms of office. For ~~regional~~local heads appointed in 2020 and 2021, the terms of office would not end automatically for up to five years but would be considered completed in 2024 for the next election. This condition contradicted the provisions of the ~~regional~~local head elections and the ~~regional~~local government laws which guaranteed the political rights of every elected leader to serve and exercise authority for a full five years.

The issue was once submitted to the Constitutional Court by the pair of ~~regional~~local heads elected in the 2020 elections which were registered in Case Number 18/PUU-XX/2022.⁷³ The Court in the decision rejected the applicant's application entirely. In the legal considerations, the court stated that cutting the term of office of ~~regional~~local heads ~~was-is~~ not against the concept of human rights. As a political right, the tenure of a ~~regional~~local head ~~was-is~~ categorized as a derogable right and ~~was is~~ limited based on the reasons set out in Article 28J paragraph (2) of the 1945 Constitution. The reasons included (a) being carried out by law, (b) guaranteeing recognition and respect for the rights and freedoms of others, and (c) meeting demands following considerations of morality, religious values, security, and public order in a democratic society. However, this decision still contained ambiguity. When the term of office of a ~~regional~~local head guaranteed by law was a political right that could be limited or reduced, then on what grounds could the government make the reduction? The court only based the reasoning on the general provision in Article 28J of the 1945 Constitution without explaining the causality logic and relevance of the legal limitation (letters a, b, and c of Article 28J) on the issue of reducing the ~~regional~~local heads' fixed term of office.

The case was considered to remind the public of the classic antinomy between the purpose of law for ~~benefit-expediency~~ vs legal certainty. As previously stated by Immanuel Kant and quoted by van Apeldoorn, justice would be increasingly difficult to achieve (*summum ius summa iniuria*) when the law was implemented as stated. On the other hand, the law would eliminate more uncertainty when implemented under certain circumstances. When the government became consistent with the provisions of Article 162 of Law 10/2016 and Article 60 of Law 23/2014 regarding terms of office for ~~regional~~local heads, simultaneous local elections were not carried out nationally. Therefore, the objective of budget efficiency would not be optimal similar to the ~~regional~~local elections in the previous period. However, when the consistent government was to hold ~~regional~~local elections

⁷³ Ariananto et al., "Reflections and Expectations of Democracy in The Implementation of Regional Autonomy : Long - Term Potential for Appointment of Acting Regional Heads."

simultaneously nationally in 2024, it would be impossible not to violate the provisions of the law and the political rights of democratically elected ~~regional~~local heads.

~~Based on this analysis, the results showed that the phenomenon of simultaneous regional head elections in Indonesia did not realize the expected benefits of the elections. In the case of Indonesia, the analysis showed that the advantages of simultaneous regional head elections did not realize budget efficiency, both in the previous and 2024 periods. This was also applied in the context of election rifts and political stability. Simultaneous regional head elections created many vacancies for regional heads in certain regions which had to be covered by the appointment of temporary officials with minimal legitimacy.~~

~~An example of simultaneous regional head elections could be found in the elections of governors and mayors in Japan. These elections were known as "Simultaneous Prefectural Elections" (Todōfuken Shichō Issai Senkyo) and were held periodically to elect prefectural governors and mayors in major cities across Japan.⁷⁴ However, the problem of antinomy in simultaneous regional head elections seemed to be a unique problem faced by Indonesia. Various issues discussed such as the polemic in the appointment of acting head and the premature resignation of the elected officials are not found in the cases of other countries where the implementation of elections had been running well established, such as Japan, South Korea, and Spain, where the time gap between the two electoral regimes was only 28 days apart. The various issues discussed such as reducing the term of office and replacement officials unilaterally appointment were not found in other countries that also carried out simultaneous elections including Japan, South Korea, and Spain where the time gap between the two electoral regimes was only 28 days apart.⁷⁵ This was because these problems seem only occurred to occur in countries that were still in a transitional period from a gradual sequential election model to a national simultaneous election model such as Indonesia. A similar case can be found in the Philippines, which has been working on synchronizing its national and local elections since the 1990s to improve efficiency and reduce election-related expenses. The local elections, typically held separately, are now held concurrently with national elections. During the shift to synchronized elections, many local officials had their terms either shortened or extended to align with the new schedule. Some opted not to extend their terms, leading to vacancies. The government addressed these vacancies by appointing caretaker officials until elections could be held or until the next election cycle. Additionally, special elections were held to fill some key local roles.~~

~~Regardless, Furthermore, the results of this study showed intriguing and relevant aspects that other scholars should consider before adopting simultaneous ~~regional~~local head elections, particularly in countries with several many territorial entities. Although simultaneous elections were widely regarded as having several advantages, the practice in Indonesia has left many problematic issues since its first implementation in 2015. Although simultaneous elections were widely regarded as having several advantages such as Indonesia with numerous regions would leave many problematic issues. This included the risk of escalating conflicts that occurred concurrently, prompting the control to be difficult and leading to a burdensome workload for officials and the election committee. The controversy contradiction in Indonesia's local election policy over regional heads' reduced terms of office and the central government's "biased" appointment of replacement officials was a recent issue in Indonesia and but it served as a good warning lesson to other countries that wanted to switch (transition) from a sequential local electoral election system gradually to a national simultaneous election.~~

D.C. Conclusion

⁷⁴ Toru Yoshida, "Populism 'Made in Japan': A New Species?," Asian Journal of Comparative Politics 5, no. 3 (2020): 288–99, <https://doi.org/10.1177/2057891119844608>.

⁷⁵ Laura Cabeza and Matthias Scantamburlo, "Dual Voting and Second-Order Effects in the Quasi-Simultaneous 2019 Spanish Regional and National Elections," Revista Espanola de Ciencia Política 55 (2021): 13–35, <https://doi.org/10.21308/recp.55.01>.

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A legal norm, whether in the form of a regulation or a policy, frequently contains contradictions or paradoxes that affect interpretation or possible legal implications, which are known as the antinomy of law. In the first form, antinomy originated from a legal norm being applied in an actual circumstance where it conflicted with other legal norms (normative antinomy of law). It could also arise at the level of legal principles, which is caused by the attempt to carry out more than one legal principle at the same time (principle antinomy of law). The same antinomy of law occurred due to the 2024 national simultaneous local head elections. In conclusion, The Local Head election law is constructed to improve the previous design of simultaneous the national simultaneous regional head elections policy scheduled for November 2024 aimed to improve on the previous design of simultaneous elections. It was expected that national election synchronization would lead to government stability and budget efficiency. However, However, the antinomy of law, policy, and legal politics was not without the contradiction and paradox, both normative and principle. Ththee notion of simultaneous local elections for political stability possessed the possibility of causing more social instability due to the issue of vacancies in various regions that were needed required to be filled with acting heads of local government temporary officials appointed by the central government authorities, among other concerns. Similarly, the benefits expediency from the 2024 simultaneous regional local head elections in terms of budget efficiency contradicted the aspect of legal certainty as the term of office of regional local heads guaranteed by law was reduced. Thus, from the antinomy of law perspective, there are contradictions both at the normative level and legal principles. All these antinomies are needed required to be understood and considered by all stakeholder groups and policymakers. In principle, the law could not satisfy all parties but the public interest had to remain the main benchmark for any legal policy made. This was to ensure that the law could be less problematic and could serve as a solution for all issues (Lex Semper dabit remedium).

Based on this evidence, several conditions were proposed for holding a more constitutional and democratic national simultaneous regional local head elections in 2024 in transition countries.⁴ First, the elections should only include regional local heads who had completed their term of office or had served for five years beginning with the inauguration and ending before the election date. Therefore, problems about violations of constitutional rights related to the tenure term of office could be avoided, and regional local heads could carry out their duties thoroughly and uninterruptedly. Second, regional local heads whose terms of office expire before the implementation of the 2024 regional head elections could be temporarily replaced by the regional local secretary in coordination with the Minister of Home Affairs. This was to avoid conflicts of interest between the central and the regional local entities authorities, as well as to ensure that local government could still function legitimately legitimation and public trust. Additionally, the government would not need to fill vacancies in various regions, avoiding distrust from the local community.

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Unraveling Legal Antinomies: Key Insights from the 2024 Simultaneous Regional Head Election

Rizki Ramadani, Muhammad Nur, Wahida Wahida, Muhammad Rinaldi Bima

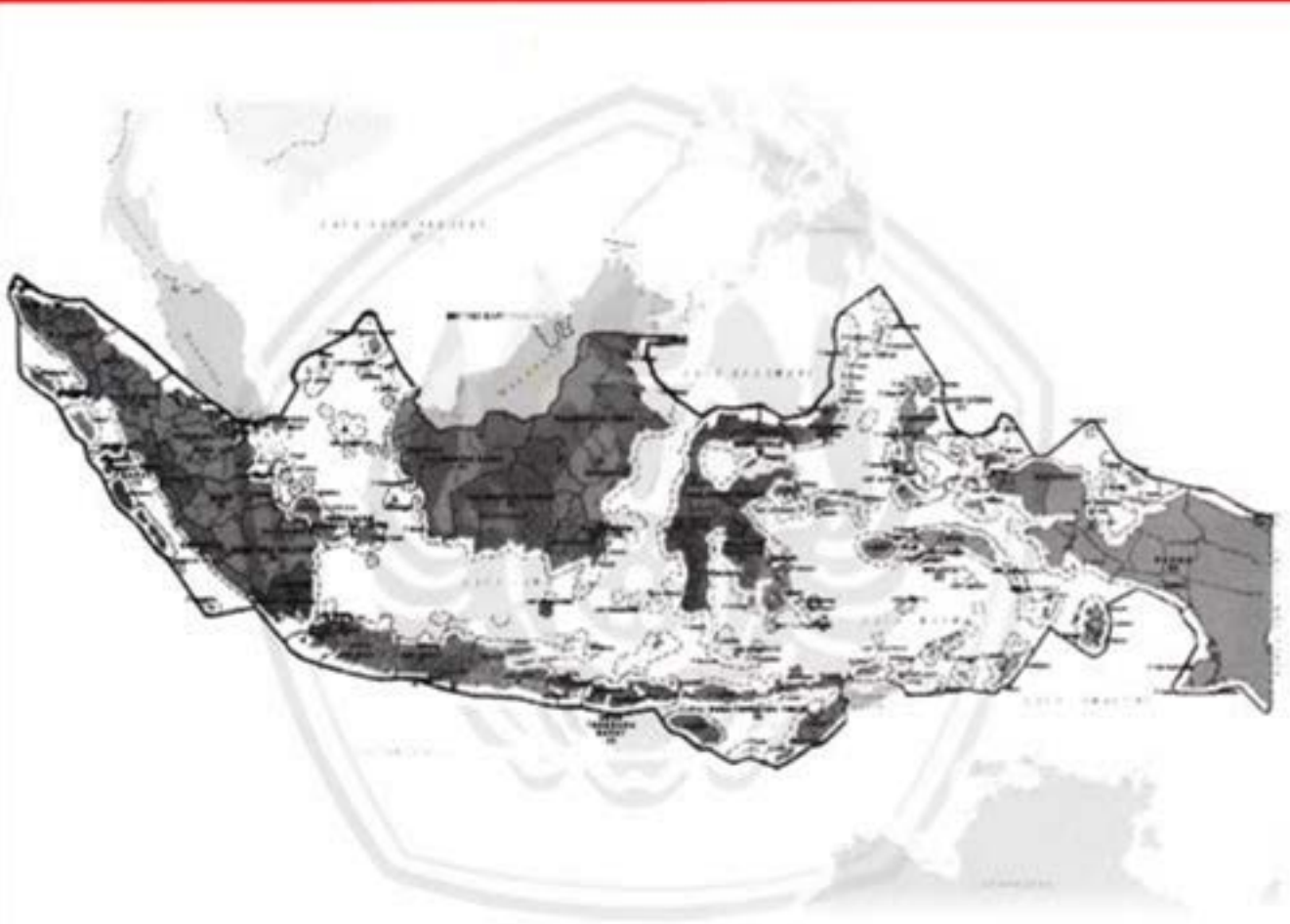
Abstract

In 2024, Indonesia held simultaneous regional head elections on the same day across the country, in contrast to the traditional patterns of regional head elections held in succession. Simultaneous regional head elections were held to increase stability and efficiency. However, there are several drawbacks, such as creating a vacancy in regional head positions that necessitates the appointment of an acting head and even forcing some permanent regional heads to step down before their terms are up. This study examines the contradictions in the 2024 simultaneous regional head election policies using the antinomy perspective. The study reveals two fields of legal antinomies under the policy of simultaneous local elections: norms and principles. This conclusion comes from normative secondary data analysis utilizing statutory and conceptual approaches. The legal antinomy on norms arises from a contradiction within

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Unraveling Legal Antinomies: Key Insights from the 2024 Simultaneous Regional Head Election

Rizki Ramadani*, Muhammad Nur**, Wahida***, Muhammad Rinaldi Bima****

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Abstract

In 2024, Indonesia held simultaneous regional head elections on the same day across the country, in contrast to the traditional patterns of regional head elections held in succession. Simultaneous regional head elections were held to increase stability and efficiency. However, there are several drawbacks, such as creating a vacancy in regional head positions that necessitates the appointment of an acting head and even forcing some permanent regional heads to step down before their terms are up. This study examines the contradictions in the 2024 simultaneous regional head election policies using the antinomy perspective. The study reveals two fields of legal antinomies under the policy of simultaneous local elections: norms and principles. This conclusion comes from normative secondary data analysis utilizing statutory and conceptual approaches. The legal antinomy on norms arises from a contradiction within the Regional Head Election Law. Article 201 Paragraph (8) orders simultaneous local elections for government stability. On the other hand, Paragraph (9) allows the appointment of acting heads of regional government, which has the potential to cause administrative, political, and social instability. In this context, a paradox emerges between the intended goal of stability and the potential for instability resulting from the policy. The legal antinomy on principles appears in the conflict between budget efficiency (expediency principle) and legal certainty. The goal of saving costs clashes with the principle of legal certainty because the fixed term of office for elected regional heads is set by law. This study helps better understand the challenges of moving from conventional to simultaneous local elections.

Keywords: legal antinomy in norms, legal antinomy in principles, simultaneous regional head elections.

A. Introduction

Nowadays, elections are regarded as a primary benchmark for democratic practices, as experts argue that fair elections can enhance citizens' satisfaction with the system.¹ Individuals can vote according to their political preferences and support

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¹ André Blais, Alexandre Morin-Chassé, and Shane P. Singh, "Election Outcomes, Legislative Representation, and Satisfaction with Democracy," *Party Politics* 23, no. 2 (2017): 85–95, DOI: 10.1177/1354068815583200.

their chosen candidates through victory. In this context, elections catalyze realizing the representative function of democracy.² Therefore, direct elections (one person, one vote) are more widely accepted and favored over indirect ones. Dahl states that democratic practices, such as elections and political parties, hold greater legitimacy than other forms of governance.³ Such legitimacy ensures everyone can express ideas and receive equal legal treatment.

In Indonesia, the path toward democracy has become inextricably linked to elections. The rise of Indonesian democracy began with constitutional amendments allowing direct general elections. However, democracy had previously been suppressed under the Old Order regime and carried over into the New Order regime.⁴ This transition resulted in the exercise of power in an oppressive and highly centralized manner.

Over the past three decades, most of the developing world has undertaken reform to decentralize the state and strengthen the responsiveness and effectiveness of local governance. Local elections have virtually always been an essential part of the process.⁵ Over time, elections for regional heads of government in Indonesia began to take place alongside those for the president and members of the legislature. Elections for regional heads are held following the mandate of the constitution and statutory to democratically elect governors at the provincial level as well as regents/mayors at the district and city levels. Most parties perceive this as evidence of the localization of democracy.⁶

In this context, democracy development at the local level is part of the agendas pursued by many countries worldwide, focusing on improving the quality of the local electoral system and process.⁷ The same is true with the regional head elections system due to the various flaws in the evaluation results, including many frauds⁸, vote buying⁹, money politics¹⁰, and strong patronage relationships between

² Anika Gauja, *Political Parties and Elections: Legislating for Representative Democracy*, 2nd Edition (London: Routledge, 2016), 5, <https://www.taylorfrancis.com/books/mono/10.4324/9781315601205/political-parties-elections-anika-gauja>, DOI: 10.4324/9781315601205.

³ Robert Dahl, *On Democracy: With an Introduction and Two Chapters by Ian Shapiro*, ed. Ian Shapiro, Veritas Paperback (United States of America: Yale University Press, 2020), 55, <https://yalebooks.yale.edu/book/9780300254051/on-democracy/>.

⁴ Donald L. Horowitz, *Constitutional Change and Democracy in Indonesia*, Paperback (Cambridge University Press, 2014), 1, <https://www.cambridge.org/core/books/constitutional-change-and-democracy-in-indonesia/>, DOI: 10.1017/CBO9781139225724.

⁵ Ed Connerley, Kent Eaton, and Paul Smoke, *Making Decentralization Work: Democracy, Development, and Security*, First Edit (London: Lynne Rienner Publisher, 2010), 54, DOI: 10.1515/9781626373822.

⁶ Elliot Bulmer, *Local Democracy, Local Economy: The Journal of the Local Economy Policy Unit*, Second Edit, vol. 12 (Stromsborg: International IDEA, 2017), 7, DOI: 10.1080/02690949808726413.

⁷ Hester M. van de Bovenkamp and Hans Vollaard, "Strengthening the Local Representative System: The Importance of Electoral and Non-Electoral Representation," *Local Government Studies* 45, no. 2 (2019): 196, DOI: 10.1080/03003930.2018.1548351.

⁸ Diego Fossati, "A Tale of Three Cities: Electoral Accountability in Indonesian Local Politics," *Journal of Contemporary Asia* 48, no. 1 (2018): 23, DOI: 10.1080/00472336.2017.1376345.

⁹ Burhanuddin Muhtadi, *Vote Buying in Indonesia: The Mechanics of Electoral Bribery*, *Vote Buying in Indonesia*, First Edit (Jakarta: Palgrave Macmillan, 2019), 54, DOI: 10.1007/978-981-13-6779-3.

¹⁰ Firman Noor et al., "The Implementation of Direct Local Election (Pilkada) and Money Politics Tendencies: The Current Indonesian Case," *Politik Indonesia: Indonesian Political Science Review* 6, no. 2 (2021): 227, DOI: 10.15294/ipsr.v6i2.31438.

candidates and voters.¹¹ These issues make regional head elections expensive and counterproductive to the development objectives.

Along with the advancement of democracy and the national election system, legal politics shifted to the simultaneous local elections model, which saves costs compared to elections held on different days. By having regional head elections simultaneously, the state is expected to save funds and minimize the adverse effects of money circulation, such as fraud and money politics. However, the outcomes of post-implementation evaluations for previous simultaneous regional head elections varied. Specific publications stated that the objectives of efficiency or savings were not achieved,¹² while others claimed it was pretty successful in saving election budgets in several regions.¹³

An indicator that will facilitate these elections to be more efficient is when the election for governors, regents, and mayors coincides in a province or throughout Indonesia.¹⁴ Only in this manner can budget efficiency be achieved, as each region will pay the election administrator's salary and logistics only once. However, there will be several regional heads whose terms of office will be reduced, which will prompt the politicians to be more susceptible to resistance and polemic. Conversely, the government is convinced about holding simultaneous regional head elections across the country in November 2024. This is explicitly stated in Article 201, paragraph 8 of Law Number 10 of 2016 (Regional Head Election Law). Consequently, election organizers should hold simultaneous gubernatorial elections in 33 provinces minus the Special Region of Yogyakarta and regent/mayor elections in 514 regencies/cities across Indonesia on November 24, 2024.

A legal consequence of the 2024 simultaneous regional head elections is that the terms of several politicians elected in 2020 will be shortened. In practice, regional heads elected in 2020 will serve for approximately 3.5 years or less, depending on the time of inauguration. In Lampung province, for example, seven regional heads were elected in 2021, putting the term of office under threat of being reduced by two years.

The reduction in term of office for many regional heads due to the simultaneous regional head elections in 2024 is perceived unfavorably. Regional heads who should be able to serve for five years should be forced to step down and be replaced by acting regional heads for the remaining period. This case, for example, occurred in Makassar City, South Sulawesi Province. The Mayor and Deputy Mayor of Makassar, Moh. Ramdhan Pomanto and Fatmawati Rusdi are among the heads of regional government in South Sulawesi whose terms of office were shortened due to the

¹¹ Laurens Bakker, "Electoral Dynamics in Indonesia: Money Politics, Patronage, and Clientelism at the Grassroots, by Edward Aspinall and Mada Sukmajati (Eds)," *Bijdragen Tot de Taal-, Land- En Volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia* 177, no. 1 (2021): 128, DOI: 10.1163/22134379-17701002.

¹² Pangi Syarwi Chaniago, "Evaluasi Pilkada Pelaksanaan Pilkada Serentak Tahun 2015," *Politik Indonesia: Indonesian Political Science Review* 1, no. 2 (2016): 196, DOI: 10.15294/jpi.v1i2.6585.

¹³ Rahmat Muhajir Nugroho and Anom Wahyu Asmorojati, "Simultaneous Local Election in Indonesia: Is It Really More Effective and Efficient?," *Jurnal Media Hukum* 26, no. 2 (2019): 213, DOI: 10.18196/jmh.20190135.

¹⁴ Chaniago, "Evaluasi Pilkada," 198.

implementation of the 2024 Simultaneous Head of Regional Government Elections. Regional heads elected from the 2020 regional head elections should still serve as mayor and deputy mayor until 2025. However, the Local Election Law, notably Article 201, Paragraphs (7) and (8), limits the term of office of the regional head elected in the 2020 Simultaneous Head of Regional Government Elections to only serve until December 31, 2024. Thus, there is a 1-year duration that is shortened from the five-year term of office as stipulated in Law Number 23 of 2014 on Regional government.

The Decree of Constitutional Court Number 27/PUU-XXII/2024 has amended its previous ruling by extending the term of office for regional heads and deputy regional heads elected in 2020. Originally set to end in December 2024, their terms will now conclude upon the inauguration of the new regional heads elected in the 2024 simultaneous regional elections. The exact schedule for the inauguration of the head of regional government has been regulated in Presidential Regulation Number 80 of 2024 on Amendments to Presidential Regulation Number 16 of 2016 on Procedures for the Inauguration of Governors and Deputy Governors, Regents, and Deputy Regents, and Mayors and Deputy Mayors. In the Regulation, the inauguration of provincial-level regional heads will be carried out simultaneously on February 7, 2025, while the head of regional government at the city and district levels will be carried out on February 10, 2025. However, there will still be a reduction in the term of office of regional heads who begin their term in 2020 and 2021.

The five-year rule is ideal for developing the regional government through measurable policy programs. However, a shorter term of office significantly impacts the development performance initiated by the regional head. This is because the program, which was initially intended to be implemented by the head of regional government in five years, had to be discontinued because the regional head's term of office ended prematurely. The leadership is then replaced by a new acting head of regional government so that it would have an impact on the sustainability and continuity of the policy.

A study on regional governments in Nigeria shows that the instability of the term of office of elected regional heads, including those caused by vacancies and the appointment of replacement officials (caretakers), has led to minimal accountability, high personnel costs, poor public services, weak political development and leadership, a lack of continuity, and poverty.¹⁵ In other words, the tenure of elected authorities must be stable for a democratic government to function. Constitutional governments worldwide require elected leaders to serve a fixed term in office to foster political stability, consistency, and continuity.¹⁶

The 2024 simultaneous local elections also impact the vacancy of regional heads whose terms expire during the year. In practice, hundreds of regions in Indonesia

¹⁵ Ugorji H.I., Ugwunneke J., and Nkwocha E.E., "The Implications of Political Tenure Instability of Elected Local Government Officials on Grassroots Development of Southeastern Nigeria," *African Journal of Law, Political Research and Administration* 5, no. 1 (2022): 84, DOI: 10.52589/ajlpra-auty1n02.

¹⁶ Miftah Toha, *Birokrasi Politik & Pemilihan Umum Di Indonesia*, (Jakarta: Prenada Media, 2014), 3-4.

should be replaced with officials appointed by the government rather than the results of democratic elections in 2022 and 2023. The issues raised show that the legal policy of simultaneous national and regional head elections is incoherent. However, there is a desire to create an efficient and effective electoral system, which must be accomplished despite the shortening of the term of office for regional heads and the creation of vacancies in several regions. These contradictory issues are intriguing to investigate from the standpoint of legal antinomy. In legal theory, antinomy refers to a paradox, inconsistency, or contradiction within the logic of legal substance—namely, a conflict between two or more legal norms or principles applied to a specific context and period.¹⁷

Scholars have frequently applied antinomy theory to studying legal and political phenomena. For example, Mills explored the contradiction between the public and private sectors in the Foundations of International Investment Law sector.¹⁸ The control of community participation rights, which are handled inconsistently by laws and regulations in the environmental sector, is also examined from this perspective.¹⁹ Mochtar further discusses antinomy theory in the context of Indonesian legislation.²⁰ Furthermore, Ramadani et al. examined the COVID-19 pandemic's regional head elections policy and discovered a legal antinomy between the realization of political obligations and the right to health.²¹

Based on reviewing previous publications and searching for numerous additional works on comparable subjects. Several prior studies have identified significant issues surrounding the 2024 simultaneous head of regional government elections and the appointment of acting regional heads. The results of the previous research reflect comparable findings and arguments, indicating that the appointment of the acting head of regional government for Indonesia's 2024 simultaneous elections has produced various legal and procedural issues. According to Juanda and Juanda, while the actions taken by the government are in line with Article 201 of the Local Election Law, they potentially violate constitutional notions such as the rule of law, democracy, and local autonomy.²² Rahmazani also revealed that the lack of precise standards guiding the nomination process has caused concerns about accountability

¹⁷ Luka Burazin, "Antinomies between Implicit Legal Principles: A Solution to the Total-Partial Antinomy." *Courts, Interpretation, and The Rule Of Law*, in *Courts, Interpretation, and The Rule Of Law*, ed. Miodrag A. Jovanović and Kenneth Einar Himma (Hague: Eleven International Publishing, 2014), 219-167, <https://ssrn.com/abstract=2391860>.

¹⁸ Alex Mills, "Antinomies of Public and Private at the Foundations of International Investment Law and Arbitration," *Journal of International Economic Law* 14, no. 2 (2011): 469, DOI: 10.1093/jiel/jgr020.

¹⁹ Febriansyah Ramadhan and Ilham Dwi Rafiqi, "Antinomy of Community Participation Rights in the Law on the Environmental Sector," *Jurnal Daulat Hukum* 4, no. 3 (2021): 171, DOI: 10.30659/jdh.v4i3.17212.

²⁰ Zainal Arifin Mochtar, "Antinomi Dalam Peraturan Perundang-Undangan Di Indonesia," *Hasanuddin Law Review* 1, no. 3 (2015): 316, DOI: 10.20956/halrev.v1n3.112.

²¹ Rizki Ramadani and Farah Syah Rezah, "Regional Head Election During COVID-19 Pandemic: The Antinomy in the Government Policies," *Yuridika* 36, no. 1 (2021): 213, DOI: 10.20473/ydk.v36i1.23528.

²² Juanda Juanda and Ogandhafiz Juanda, "Pengangkatan Pejabat Kepala Daerah Menghadapi Pilkada Serentak 2024 Dalam Perspektif Hukum Tata Negara," *Jurnal Keamanan Nasional* 8, no. 1 (2022): 192, DOI: 10.31599/jkn.v8i1.534.

and transparency.²³ Even an appointment of active military and police members as acting leaders is regarded to be illegal under many regulations, including those governing the armed forces and civil service.²⁴ Overall, Riastri pointed out that the 2024 simultaneous local election policy significantly impacted the Local Elections in 2017, 2018, and 2020. The initial impact of the 2017 and 2018 Local Elections involves the civil apparatus as Interim head of regional government during the transition to the 2024 Simultaneous Local Elections. The second impact, notably for the 2020 Local Elections, reduces the regional head's term, which was initially intended to serve until 2026.²⁵

Some research also indicates that simultaneous local elections were implemented to reduce high political costs and improve efficiency, including in Indonesia.²⁶ For instance, the proposed "One Nation, One Election" system in India is estimated to save over ₹45 billion annually.²⁷ However, local elections have always been associated with various transactional politics. Indarti et al. argue that the high costs of contestation in local elections are attributed to oligarchic control of political parties and regulatory loopholes that favor candidates with significant financial resources.²⁸

Based on several existing studies, the legal antinomy perspective has not been adequately utilized as a viable analytical tool to address the issues due to the simultaneous regional head election policy. Consequently, this problem presents a significant gap that has not been covered and provides an opportunity to analyze two key issues. This research is a doctrinal legal study using normative-conceptual and case approaches. Primary legal materials are collected by inventorying the laws and regulations related to the problems being studied, combined with a literature study of relevant literature and previous research results. The analysis is then presented using descriptive analytical techniques. The study questions include: (1) What kind of antinomy can originate from contradictory legal phenomena? and (2) What form of legal antinomy arises due to the 2024 national simultaneous head of regional government election policy? Based on these purposes, the study objective is not to directly solve the problems raised by simultaneous regional head election

²³ Rahmazani, "The Problems of Appointment Acting Officer of Regional Head in the Transition Period Before the Election of 2024," *Jurnal Konstitusi* 20, no. 2 (2023): 196, DOI: 10.31078/jk2022.

²⁴ Muhammad Fajar Sadiq and Amalia Diamantina, "Appointment of Members of the Indonesian National Army as Acting Regional Heads in the Face of Simultaneous Regional Elections in 2024," *International Journal of Social Science and Human Research* 7, no. 05 (2024): 3510, DOI: 10.47191/ijsshr/v7-i05-125.

²⁵ Riastri Haryani, "The Implementation of Simultaneous Local Elections: An Overview of Constitutional Law and Its Impact on Democracy in Indonesia," *SiGn Jurnal Hukum* 5, no. 1 (2023): 102, DOI: 10.37276/sjh.v5i1.262.

²⁶ Ilham Dwi Rafiqi Sirajuddin, Febriansyah Ramadhan, "Urgensi Pemisahan Penyelenggaraan Pemilihan Umum Serentak Nasional Dan Lokal," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 4, no. 2 (2021): 233, DOI: 10.24090/volksgeist.v4i2.5232.

²⁷ Arti Bhatnagar, "Issue of 'One Nation, One Election' in Indian Perspective," *International Journal For Multidisciplinary Research* 6, no. 1 (2024): 1–5, DOI: 10.36948/ijfmr.2024.v06i01.13626.

²⁸ Sitti Aminah et al., "The High Political Costs in Local Head Election (Case Study in Indonesia)," *European Journal of Molecular and Clinical Medicine* 7, no. 11 (2020): 653, <https://www.ejmcm.com/archives/volume-7/issue-11/6329>.

laws but to point out the legal antinomies these policies breach to establish a foundation upon which recommendations can be facilitated.

B. Legal Antinomy and the Simultaneous Regional Head Election Policy

1. The Legal Antinomies on Norms and Principles: An Overview

A legal norm, either in the form of a regulation, decree, or decision, frequently contains contradictions or paradoxes that affect the policy's interpretation, intent, or potential legal implications. This phenomenon is known as the legal antinomy in the general theory of law.²⁹ As the word, which joins the Greek *anti* (opposed to) and *nomos* (law) suggests, antinomy refers to the incompatibility of what appear to be two well-founded positions.³⁰ By definition, antinomy represented a circumstance that contradicted itself (a debate between elements) but could not be divided because both depended on each other. The concept of Immanuel Kant in the age-old struggle between reason and nature served as the epistemological foundation for the antinomy theory. Kant applied this logic to his greatest work, *Critique of Pure Reason*, which analyzes the fundamental contradictions.³¹ This contradiction significantly impacted the manner of legal reasoning, which constantly pursued and maintained an equilibrium point in every situation.

Several studies on legal antinomy show that there are two fields based on its nature: norms and principles. Pinet states that the legal antinomy can be recognized from conflicting norms or values of law.³² In the first form, antinomy comes from a legal norm implemented in a factual situation where the provision or application contradicted other regulations. Contradictions arise in this situation due to differences between one rule and another within the same legal sector. For instance, Febriyanti et al. examined the juridical-normative nature of the legal policy on using foreign workers in Government Regulation 34 of 2021.³³ Several provisions in government regulations were also considered to ease the path for foreign workers to enter the country, contradicting several labor law regulations that limited the use of foreign workers to safeguard the rights of domestic employees. In this instance, a contradiction existed between legal rules that preserved local employees'

²⁹ Joao Christofolo, *Solving Antinomies Between Peremptory Norms in Public International Law*, Schulthess Éditions Romandes, First Edition, (Geneve: Schulthess Éditions Romandes, 2016), Chap. 1, 7-8, https://toc.library.ethz.ch/objects/pdf03/e01_978-3-7255-8599-1_01.pdf.

³⁰ Karsten Harries, *The Antinomy of Being*, First Edit (New Haven, USA: De Gruyter, 2019), 1, DOI: 10.1515/9783110629323.

³¹ Silvia De Bianchi, "When Series Go in Indefinitum, Ad Infinitum and in Infinitum Concepts of Infinity in Kant's Antinomy of Pure Reason," *Synthese* 192, no. 8 (2015): 2395, DOI: 10.1007/s11229-015-0813-2.

³² Sandrine Chassagnard-Pinet, "Conflict of Norms and Conflict of Values in Law," in *Logic, Argumentation & Reasoning: Interdisciplinary Perspectives from the Humanities and Social Sciences*, ed. Matthias Armgardt, Patrice Canivez, and Sandrine Chassagnard-Pinet (New York: Springer, 2015), 235, DOI 10.1007/978-3-319-16021-4.

³³ Khairina Febriyanti, Irma Suryani, Zainuddin, "Kontradiksi Peraturan Pemerintah Nomor 34 Tahun 2021 Tentang Penggunaan Tenaga Kerja Asing," *Jurnal Integrasi Ilmu Syari'Ah* 3, no. 3 (2022): 497, DOI: 10.31958/jisrah.v3i3.8395.

opportunities and those favoring foreign investment and calling for convenient access.

Another example is the simultaneous regional head elections in 2021 during the COVID-19 epidemic. There was a contradiction between the legal rules for conducting regional head elections, which unavoidably led to crowds, and the rules for social restrictions prohibiting crowds (physical distancing). The contradicting norms ranged from constitutional provisions (political obligations vs. the right to health) to organic laws and technical regulations such as the Minister of Health vis-a-vis General Election Commission Regulations.³⁴ This necessitated the existence of legal norms between two or more competing interests, but the law could not satisfy all interests.

Legal antinomy can also occur at the level of legal principles, which are more philosophical and fundamental. This form of antinomy is reflected in the contradiction between the principles of legality, *rechtweigeren*, and judicial freedom in the context of legal construction by judges.³⁵ According to the consensus among jurists, the legality concept was a key tenet in applying criminal law and guiding judges in rendering judgments. A positivist interpretation of this principle emphasizes that judges act merely as *bouche de la loi*, mouthpieces of the law, and are not permitted to interpret unambiguous laws or apply analogies, except in common law tradition.³⁶ However, this contradicted the principle that a judge may not dismiss a case due to the absence of governing law. When the legality principle forbade judges from thinking independently when constructing laws, the *rechtweigeren* policy motivated judges to find laws using personal methods, especially when it was relevant to the principle of judge independence.

The jurisdiction of the Indonesian Supreme Court to review statutory regulations under the prevailing legislation also presents an example of legal antinomy. When the Supreme Court was granted the authority to conduct judicial review of laws and regulations, the only objection initially surfaced was that the authority should be given to the Constitutional Court since it was more pertinent to the matter of reviewing legislation (*toetsingrecht*). At the same time, the Supreme Court should concentrate solely on law enforcement.³⁷ Over time, several issues arose, including the duality of reviewing local regulations by the Government (executive review) and the Supreme Court (judicial review). Furthermore, problems arose when the Supreme Court was required to review rules originating from the legal products, i.e., the Supreme Court Regulations.³⁸ In this context, there was a contradiction between

³⁴ Ramadani and Rezah, "Regional Head Election," 215.

³⁵ E. Nurhaini Butarbutar, "Antinomi Dalam Penerapan Asas Legalitas Dalam Proses Penemuan Hukum," *Yustisia Jurnal Hukum* 1, no. 1 (2012): 145, DOI: 10.20961/yustisia.v1i1.10614.

³⁶ Adam Rigoni, "Common-Law Judicial Reasoning and Analogy," *Legal Theory* 20, no. 2 (2014): 133–56, DOI: 10.1017/S1352325214000044.

³⁷ Simon Butt, "Judicial Reasoning and Review in the Indonesian Supreme Court," *Asian Journal of Law and Society* 6, no. August 2018 (2019): 67, DOI: 10.1017/als.2018.26.

³⁸ Safudin Endrik, "Harmonisasi Hukum Dalam Antinomi Hukum (Analisis Terhadap Penerapan Pasal 20 Ayat 2 Huruf B Undang-Undang Republik Indonesia Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman)," *Al-Syakhsiyyah Journal of Law & Family Studies* 2, no. 2 (2020): 202, DOI: 10.21154/syakhsiyyah.v2i2.2592.

the principle of "*ius curia novit*," which demanded the Supreme Court proceed to examine the appeal, and the policy of "*nemo iudex idoneus in propia causa*," which prohibits judges from adjudicating cases in which they have personal involvement.

Legal antinomies may arise from efforts to simultaneously realize more than one legal principle, particularly when the objectives of these principles conflict. This was reflected in Gustav Radbruch's classic theory of legal ideals (*idee des rechts*), conceived on three principles namely expediency (*zweckmassigkeit*), justice (*gerechtigkeit*), and legal certainty (*rechtssicherheit*).³⁹ The theory adhered to the dictum that an ideal law could achieve all three principles simultaneously, although this ideal is often seen as somewhat utopian in practice.

Empirically, examples are more easily found where the objectives of the law conflict in application. One such example can be seen in the case of agrarian conflict resolution between community farmer groups and large private companies in Ogan Komering Ilir Regency regarding land use. In Decision Number 06/Pdt.G/2014/PN. Kag, the judge, rejected the counterclaim from the farmers because the lawsuit was slanderous. This case showed that formal principles in law could override aspects of justice and expediency.

Legal antinomy is further represented in the competition between the two popular schools of law: the streams of judicial activism vs. self-restraint.⁴⁰ In the Indonesian context, the contradiction between these theories became a central topic in the debate over Constitutional Court judges' decisions in examining laws that violated the Constitution. The Constitutional Court, with the authority to annul laws, functioned as a negative legislature, contrasting with the executive and legislative bodies, which are positive legislatures. Over time, the Constitutional Court frequently issued decisions that exceeded the authority of a negative legislator, making decisions and formulating new norms (positive legislators)⁴¹. This led to an unfavorable relationship between the judiciary and the legislature, particularly due to the lack of limits on the powers of the Constitutional Court in examining laws. The type of judicial activism was often lauded for attempting to fulfill substantive rather than procedural justice⁴². However, this practice frequently led to deadlocks in constitutional issues such as filling legal gaps (*rechtsvacuum*) and upholding societal justice.⁴³

³⁹ John Kenedi, "Justification Of Pancasila Law State As An Effort To Realize Indonesian Progressive Law" 15, no. 2 (2022): 172, DOI: 10.2478/bjlp-2022-001011.

⁴⁰ Françoise Tulkens, "Judicial Activism v Judicial Restraint: Practical Experience of This (False) Dilemma at the European Court of Human Rights," *European Convention on Human Rights Law Review* 3, no. 3 (2022): 293, DOI: 10.1163/26663236-bja10048.

⁴¹ Laurence Claus and Richard Kay, "Constitutional Courts as 'Positive Legislators' in the United States," *American Journal of Comparative Law* 58, no. 1 (2010): 479–504, DOI: 10.5131/ajcl.2009.0018; Risdiana Izzaty and Xavier Nugraha, "Perwujudan Pemilu Yang Luberjurdil Melalui Validitas Daftar Pemilih Tetap," *Jurnal Suara Hukum* 1, no. 2 (2019): 155, DOI: 10.26740/jsh.v1n2.p155-171.

⁴² Rahayu Prasetyaningih, "Judicial Activism in Indonesia: Constitutional Culture by the Constitutional Court," *Jurnal Kajian Ilmu Hukum Dan Syariah* 5, no. 2 (2020): 16, DOI: 10.22373/petita.v5i2.106.

⁴³ Indriati Amarini, "Implementation of Judicial Activism in Judge's Decision," *Jurnal Hukum Dan Peradilan* 8, no. 1 (2019): 21, DOI: 10.25216/jhp.8.1.2019.21-38.

The preceding examples of principle antinomy showed the inherent nature of laws that might contain a contradiction. According to Friedmann, the condition was because doctrines in the science of law were compiled based on philosophical reasoning, which was relative when rational⁴⁴. Furthermore, Friedmann states that legal theory possessed a minimum of eight antinomies: (1) individual and universe, (2) volunteering and objective knowledge, (3) reason and intuition, (4) stability and change, (5) positivism and idealism, (6) collectivism and individualism, (7) democracy and autocracy, as well as (8) internationalism and nationalism.⁴⁵

The main difference between principle and normative antinomy is that contradictions within statutory regulations could still be resolved with relevant legal principles and/or theories. For example, conflicts between one law and another could be resolved by harmonization theory. When regulatory conflicts occurred between lower and higher regulations, vertical harmonization was carried out based on the principle of *lex superior derogate legi inferior* (higher law overcomes lower law). In this context, legal principles guide the interpretation or discovery of rules, unify legal principles, and ensure the consistency and coherence of legal rules, among other things.

Antinomy in the context of meta-juridical principles and theories differs as no practical solution exists for addressing these issues. Conflicts at the legal theory and principles level often stem from differing paradigms for understanding the law. This paradigm shift has emerged from historical debates between various legal schools, including legal positivism, which emphasizes the consistency of natural law and exalts justice as the foundation of the law.⁴⁶ A similar shift can be observed in legal institutions during the postmodernist era, such as the critical legal studies movement, which consistently critiqued and examined the law not as a value-free order but as a complex system of interests and hegemony.⁴⁷

2. The 2024 Simultaneous Regional Head Elections: Conflicting Norms and Principles

In Indonesia, several simultaneous regional head elections were held in several batches beginning in December 2015 for all leaders whose terms of office officially ended that year. However, 33 provinces (governors), 30 cities (mayors), and 224 districts (regents) participated in the 2015 simultaneous local elections. In 2017, 7 provinces, 18 cities, and 76 regencies held the elections for regional heads whose terms of office ended during that period. The third round of local elections should have been held in September 2020 before the arrival of the COVID-19 pandemic. Despite being postponed until 2021, the elections were held in December 2020 in 270 regions (9 provinces, 224 districts, and 37 Cities). Although the elections were

⁴⁴ Mochtar, "Antinomi," 319.

⁴⁵ Ramadani and Rezah, "Regional Head Election During," 218.

⁴⁶ Brian Flanagan and Ivar R. Hannikainen, "The Folk Concept of Law: Law Is Intrinsically Moral," *Australasian Journal of Philosophy* 100, no. 1 (2022): 165, DOI: 10.1080/00048402.2020.1833953.

⁴⁷ Juhana Salojärvi, "A Counter-Culture of Law: Jurisprudential Change and the Intellectual Origins of the Critical Legal Studies Movement," *American Journal of Legal History* 59, no. 4 (2019): 409, DOI: 10.1093/ajlh/njz022.

conducted simultaneously, they still varied in timing due to differences in the commencement and end of the regional government periods across Indonesia.

Like the previous model, the 2024 simultaneous regional head elections were scheduled to be held in all regions of Indonesia, including the 34 provinces and 514 districts and cities. The election was set for November 24, 2024, ensuring all regions participated on the same day. In the same year, simultaneous general elections to elect a president and vice president, members of the People's Representative Council (DPR) of Indonesia, the Local Representative Council (DPD) of Indonesia, as well as provincial and district/city local people's representative councils (DPRD) were scheduled for February 14. This would be Indonesia's first and largest synchronized election, as elections and local elections have never been held in the same year.

Legal politics serving as a basic justification for this policy could be broken down into two categories: the desire to create political stability and the need to minimize election costs. The General Election Commission expressed that simultaneous local and general elections aimed to foster political conditions conducive to overall governmental stability—the Commission, which was the authority in charge of administering elections, expressed this opinion. According to Hasyim Asy'ari, the Head of the General Election Commission, elections were primarily intended to form a government at the national and local levels by filling out vacancies in each cabinet. Therefore, synchronizing elections with local elections led to a stable government because it had institutionalized time by having the central and regional governments begin the five-year terms simultaneously.

In this context, the relevance of the argument that simultaneous local elections could create better governance stability conceptually was questionable. This was because government stability was the expected effect of the concurrent design of general elections (executive and legislative elections).⁴⁸ The essence of this election design was to hold legislative and executive elections on the same day for a congruent government to be established, i.e., the election of executive officials (President and Vice President) who support a legislative majority. This governance pattern would significantly affect governmental stability⁴⁹, which was the basis for the claim that simultaneous elections could strengthen the presidential system.⁵⁰ In contrast, the theoretical stability of government was an expected effect of simultaneous presidential and legislative and not the regional head elections.

Even when the rationalization of the 2024 simultaneous local elections to create governmental stability was accepted, it would lead to a contradiction. Theoretically, simultaneous local elections were held to develop stability in government by

⁴⁸ Moh. Ilham A. Hamudy and M. Saidi Rifki, "Strengthening the Multi-Party Presidential Government in Indonesia," *Politik Indonesia: Indonesian Political Science Review* 4, no. 2 (2019): 208, DOI: 10.15294/ipsr.v4i2.18447.

⁴⁹ Rizki Bagus Prasetyo and Febri Sianipar, "The Relevance of the Application of the Presidential Threshold and the Implementation of Simultaneous Elections in Indonesia," *Jurnal Penelitian Hukum De Jure* 21, no. 2 (2021): 267, DOI: 10.30641/dejure.2021.v21.267-284.

⁵⁰ Iding Rosyidin, "Strengthening Democratic Institution and the Need for Political Literacy An Evaluation to the Simultaneous Election in Indonesia" (Atlantis Press, 2018), 204, DOI: 10.2991/icspss-17.2018.43.

allowing officials to begin their terms of office simultaneously. However, the study also recognized that the 2024 simultaneous local election policy has generated vacancies in many regions. According to the Ministry of Home Affairs, more than 200 regional heads would be filled by acting heads of regional government due to vacancies before the 2024 elections. In 2022, the acting head of regional government filled 101 regional head positions, including 76 regents, 18 mayors, and seven governors.⁵¹ No fewer than 171 heads from the 2018 local elections will also leave office in 2023.⁵² Details on 38 mayors, 115 regents, and 18 governors were included in this figure.⁵³ Based on this evidence, the first antinomy in the simultaneous local election policy was the conflict between the objective of simultaneous local elections to create government stability and the instability caused by many vacancies in the head position.

There were consequences despite Article 201 paragraph (9) of Law number 10 of 2016 allowing the appointment of acting regional heads whose terms ended in 2022 and 2023. The appointment of new regional heads at least triggers administrative, political, and sociological consequences. From an administrative standpoint, the presence of an official was intended to allow the continuation of the government administration, but this never suggests that the process would be smooth. Despite having an equal legal basis, The acting regional head's authority had difficulty being the same as the definitive leader. Furthermore, there are various limitations on what acting heads are authorized and prohibited from doing. The Head of the National Civil Service Agency, Letter Number K.26-30 IV, stated the restrictions.^{100-2|99} On the Explanation of the Acting Regional Head's Personnel Authority. The policy explained that the Acting Regional head is prohibited from making decisions with legal consequences (civil effect) on staffing aspects such as appointments, transfers, and dismissals in/from civil apparatus positions unless written approval from the Minister was obtained.

The subject is particularly essential to examine, given that the appointment of the acting head is a consequence of the government's plan to hold simultaneous regional head elections in 2024. The government believes that appointing temporary heads is a practical solution to the vacancies resulting from scheduling simultaneous head of regional government elections. This decision can spawn new problems, such as government instability, stagnation, and dissatisfaction with public services. In contrast, government stability is determined by officials who receive public support

⁵¹ Dania Shofi Maziyah et al., "Implementation Of Good Governance In The Appointment Of Regional Acting Heads," *Santhet: Jurnal Sejarah, Pendidikan Dan Humaniora* 8, no. 2 (2024): 12301, DOI: 10.36526/js.v3i2.4109.

⁵² Emmanuel Ariananto et al., "Reflections and Expectations of Democracy in The Implementation of Regional Autonomy : Long - Term Potential for Appointment of Acting Regional Heads," *PLEDOI (Jurnal Hukum Dan Keadilan)* 2, no. 1 (2023): 50, DOI: 10.56721/pledoid.v2i1.184.

⁵³ Halimah Humayrah Tuanaya, "Kedudukan Hukum Penunjukan Aparatur Sipil Negara Sebagai Pengganti Kepala Daerah Dalam Otonomi Daerah Pasca Putusan Mahkamah Konstitusi NO. 67/PUU-XIX/2021 20 April 2021," *Rechtsvinding* 11, no. 2 (2022): 229, DOI: 10.33331/rechtsvinding.v11i2.928; Mahatma Chryshna, "Kepala Daerah Habis Masa Jabatan 2022, 2023, Dan 2024," *Kompaspedia*, April 14, 2022, <https://kompaspedia.kompas.id/baca/paparan-topik/kepala-daerah-habis-masa-jabatan-2022-2023-dan-2024>.

(legitimacy).⁵⁴ Many research studies suggest that the replacement of local officials can indeed lead to government instability and potentially violate principles of effective governance and professionalism.⁵⁵ Others claim that instability is exacerbated by the absence of public participation in selecting acting heads of regional government, implying extensive centralization policies that weaken local autonomy.⁵⁶ Zhoe & Deng, for example, point out how frequent turnover of officials negatively impacts environmental quality, particularly when officials are transferred from the central government.⁵⁷

The observed limitation also correlated with the provisions of Article 14 paragraph (7) of Law Number 30 of 2014 on Government Administration, stating that Government Agencies and/or Officials who obtained authority through mandates were not authorized to make decisions and/or actions impacting changes in organizational structure, staffing, and budget allocation. Consequently, officials could not prepare the Regional Medium-Term Development Plan documents as stipulated in local regulations. This was because the plan contained an elaboration of the vision and mission of the elected regional head, the validity period of which was five years or concurrent with the term of office of the leader concerned. Furthermore, officials were not authorized to set the vision and mission. In practice, this hindered local expenditure activities and financial management, which had to be referred to in the Regional Medium-Term Development Plan document.

Regarding political implications, the placement of acting regional heads was vulnerable to introducing particular political interests. There was also speculation about the potential for re-centralization with many officials elected and appointed by the central government. This included the assumption of non-neutrality of officials and the discourse on appointing members of the Indonesian National Police and the Armed Forces to fill the vacant positions. For example, in West Bandung Regency, officials formulated the vision, mission, and Long-Term Development Plan, which served as the definitive local plan. The Plan was further haphazardly outlined in a Regent's Regulation, which should be a regional regulation. Like the Pangandaran Regency, the executor of the regent's task intensively managed the bureaucracy and rotated positions beyond the authority.⁵⁸

Administrative and political implications impacted serving the community's needs in the regions (social implications). Obstacles to local spending undoubtedly

⁵⁴ Muhammad Baharuddin Zubakhurum Tjenreng, *Demokrasi Di Indonesia Melalui Pilkada Serentak*, (Jakarta: Papas Sinar Sinanti, 2020), 54, <http://eprints2.ipdn.ac.id/id/eprint/1003/>.

⁵⁵ Abdul Azis Hasan, "Pemerintahan Pada Masa Transisi Pergantian Kepala Daerah Dalam Perspektif Otonomi Daerah," *Jurnal Akta Yudisia* 5, no. 2 (2021): 138, DOI: 10.35334/ay.v5i2.1913.

⁵⁶ Muhammad Syaiful Anwar, Rafiqah Sari, and Ndaru Satrio, "Sistem Penunjukan Penjabat Kepala Daerah Dalam Perspektif Teori Pengisian Jabatan," *Jurnal Hukum In Concreto* 3, no. 1 (2024): 72, DOI: 10.35960/inconcreto.v3i1.1362.

⁵⁷ Ming ZHOU and Li-Ying DENG, "Officials' Turnover, Promotion Incentives and Environmental Quality-Evidence from Provincial Government Leaders in China" 281, no. Sschr 2018 (2019): 438, DOI: 10.2991/sschr-18.2019.80.

⁵⁸ Nandang Alamsah Deliarnoor, "Problematika Pelaksana Tugas (Plt) Dalam Masa Transisi Pemerintahan (Pra Dan Pasca Pilkada Serentak)," *CosmoGov* 1, no. 2 (2017): 322, DOI: 10.24198/cosmogov.v1i2.11841.

impacted meeting people's needs.⁵⁹ Furthermore, officials full of political interests could trigger public discontent and distrust⁶⁰, risking public disobedience and even horizontal conflict. For example, in 2022, the Jakarta Legal Aid Institute (LBH – *Lembaga Bantuan Hukum*) sued the President and the Minister of Home Affairs to the State Administrative Court (PTUN – *Pengadilan Tata Usaha Negara*) due to alleged unlawful acts by the authorities (*Onrechtmatige Overheidsdaad*) when the government carried out a series of appointments and inaugurations of several acting heads of regional government. Previously, Banten residents also sued the appointment of regional heads to the polemic of the Governor of Southeast Sulawesi, who refused to inaugurate acting regents/mayors. The same phenomenon also occurred in Aceh Province, where the Civil Society Coalition sued the actions of the President and the Minister of Home Affairs, who appointed and inaugurated a Major General (Ret.) Achmad Marzuki as Acting Governor.

The potential for horizontal conflict in pre- and post-election periods is also worth considering. So far, several regions have a high election vulnerability index (IKP – *Indeks Kerentanan Pemilu*). The Chairman of the Election Supervisory Board (Bawaslu – *Badan Pengawas Pemilihan Umum*) recognized this, pointing out that the 2024 Simultaneous Regional Head Elections are more vulnerable than the 2024 General Election. Bawaslu has found 1,952 vulnerabilities. However, this is only an estimation; the number could be larger in the field.⁶¹ The Indonesian National Army (TNI) Strategic Intelligence Agency (BAIS) said that vulnerability is expected to increase in 15 areas with high levels of vulnerability, such as Aceh and Papua.⁶² Conflict escalation could have increased massively when it happened simultaneously in various regions.

Based on the foregoing explanation, it is reasonable to say that the 2024 simultaneous regional election policy conceives a legal antinomy. This antinomy results from both conflicts in legal norms and contradictions at the level of legal principles. In summary, the existing inconsistencies are shown in the following table.

⁵⁹ Ferensky Regina Sandjaja, Ferinda Nafisa, and Ita Nurmanti Manurung, "The Impact of Fiscal Decentralization on Welfare in Selected Provinces in Indonesia," *Jurnal Bina Praja* 12, no. 1 (2020): 21, DOI: 10.21787/jbp.12.2020.21-31.

⁶⁰ Abustan, "Implementasi Demokrasi Dan Legitimasi Penjabat Kepala Daerah Di Indonesia Abustan," *Indonesia Law Reform Journal* 2, no. 3 (2022): 274, DOI: 10.31571/edukasi.v19i2.2901.

⁶¹ Badan Pengawas Pemilihan Umum Republik Indonesia, *Indeks Kerawanan Pemilu 2024*, ed. Tim Editor Bawaslu RI, (Jakarta Pusat: Badan Pengawas Pemilihan Umum Republik Indonesia, 2024), 54, <https://www.bawaslu.go.id/sites/default/files/publikasi/BUKU%20IKP%20PEMILU%20DAN%20PEMILIHAN%20SERENTAK%202024-2.pdf>.

⁶² Aryo Wasisto, "Komitmen Mitigasi Kerawanan Pilkada Serentak 2024," *Isu Sepekan*, March, 18, 2024, https://berkas.dpr.go.id/pusaka/files/isu_sepekan/Isu%20Sepekan---III-PUSLIT-Maret-2024-2063.pdf.

Table 1. Legal Antinomies in 2024 Regional Head Elections⁶³

No.	Field of Antinomy	Explanation
1.	Norms (Government Stability vs. Administrative, Political and Social Instability)	Simultaneous regional head elections based on Article 201 paragraph (8) of the Regional Head Elections Law aimed to create government stability. Still, the appointment of acting head of regional government in various regions based on Article 201 paragraph (9) has the potential to cause administrative, political, and social instability instead. Several things cause this: 1) the appointment mechanism that shows a centralistic pattern and interests; 2) the limited authority of the acting head of regional government (Article 14 paragraph (7) of Law Number 30 of 2014), which has the potential to cause government stagnation; 3) the high election vulnerability index in various regions, which has the potential to escalate if it coincides.
2.	Principles (Budget efficiency/ Expediency vs. term of office reduction/legal certainty)	The simultaneous regional head election policy is aimed at budget efficiency, which aligns with the principle of utility/expediency. However, this is not in line with other consequences that arise, such as a reduction in the term of office of several heads of regional government who are forced to resign before their term of office ends in 2025. In essence, the term of office is the right of an elected head of regional government, which is guaranteed by law. So, a reduction to it, on any basis, violates the principle of legal certainty.

Table 1 showed that in addition to the paradox between the stability purpose and the instability impact of the 2024 simultaneous local elections, there was also an antinomy between efforts to increase efficiency or save the budget and the shortening of regional heads' terms of office. As stated previously, one of the main objectives of designing simultaneous elections was maximizing state budget efficiency. The aim is stated by DPR Commission II member Luqman Hakim, noting that the government supported the simultaneous local election policy to carry out efficiency and refocus part of the election budget on handling the impact of the COVID-19 pandemic, such as enhancing poverty and unemployment. This further implied that the purposefulness aspect was the primary consideration in the legal politics of the 2024 simultaneous local elections. However, the objective was

⁶³ Analyzed from the primary sources (Law Number 30 of 2014 on Government Administration, Law Number 10 of 2016 on Head of Regional Government Election, Law Number 23 of 2014 on regional government) and secondary sources.

contradictory to the reduction in the term of office of regional heads who had not finished the period but were required to finish and take part in the upcoming elections. The law further guaranteed regional heads five years of service. In other words, there had been an antinomy between the principles of expediency (efficiency efforts) and legal certainty (five years of service).

Indonesian laws and regulations guarantee a fixed term of office for regional heads. This was explicitly stated in Article 162, paragraphs (1) and (2) of Law Number 10 of 2016 and Article 60 of Law Number 23 of 2014 on regional government. The Article stated that the term of office for regional heads was 5 years from the inauguration date. However, regional heads who started the terms of office in 2020 and 2021 would experience a 1-2 year cut with the agreement on the simultaneous local elections in November 2024, as stated in Law 10/2016. This gave rise to "ended" and "finished" terms of office. For regional heads appointed in 2020 and 2021, the terms of office would not end automatically for up to five years but would be considered completed in 2024 for the next election. This condition contradicted the provisions of the regional head elections and the regional government laws, which guaranteed the political rights of every elected leader to serve and exercise authority for a full five years.

The issue was once submitted to the Constitutional Court by the pair of regional heads elected in the 2020 elections, who were registered in Case Number 18/PUU-XX/2022.⁶⁴ The Court, in the decision, rejected the applicant's application entirely. In the legal considerations, the court stated that cutting the term of office of regional heads is not against the concept of human rights. As a political right, the tenure of a regional head is categorized as a derogable right. It is limited based on the reasons in Article 28J paragraph (2) of the 1945 Constitution. The reasons included (a) being carried out by law, (b) guaranteeing recognition and respect for the rights and freedoms of others, and (c) meeting demands following considerations of morality, religious values, security, and public order in a democratic society. However, this decision still contained ambiguity. When the term of office of a regional head guaranteed by law was a political right that could be limited or reduced, then on what grounds could the government make the reduction? The court only based the reasoning on the general provision in Article 28J of the 1945 Constitution without explaining the causality logic and relevance of the legal limitation (letters a, b, and c of Article 28J) on the issue of reducing the regional heads' fixed term of office.

The case reminded the public of the classic antinomy between the purpose of law for expediency vs legal certainty. As previously stated by Immanuel Kant and quoted by van Apeldoorn, justice would be increasingly difficult to achieve (*summum ius summa iniuria*) when the law was implemented as stated. On the other hand, the law would eliminate more uncertainty when implemented under certain circumstances. When the government became consistent with the provisions of Article 162 of Law 10/2016 and Article 60 of Law 23/2014 regarding terms of office for regional heads, simultaneous local elections were not carried out nationally.

⁶⁴ Ariananto et al., "Reflections and Expectations," 65.

Therefore, the objective of budget efficiency would not be optimal like the local elections in the previous period. However, when the consistent government was to hold local elections simultaneously nationally in 2024, it would be impossible not to violate the provisions of the law and the political rights of democratically elected regional heads.

Various issues discussed, such as the polemic in the appointment of acting head and the premature resignation of the elected officials, are not found in the cases of other countries where the implementation of elections had been running well established, such as Japan, South Korea, and Spain, where the time gap between the two electoral regimes was only 28 days apart.⁶⁵ These problems seem only to occur in countries still in a transitional period from a sequential to a national simultaneous election model. A similar case can be found in the Philippines, which has been working on synchronizing its national and local elections since the 1990s to improve efficiency and reduce election-related expenses. The local elections, typically held separately, are now concurrently with national elections. During the shift to synchronized elections, many local officials had their terms either shortened or extended to align with the new schedule. Some opted not to extend their terms, leading to vacancies. The government addressed these vacancies by appointing caretaker officials until elections could be held or until the next election cycle. Additionally, special elections were held to fill some key local roles.

Nevertheless, the findings of this study highlight important and relevant aspects that should be carefully considered by other scholars before adopting simultaneous regional head elections, especially in countries with numerous territorial entities. Although simultaneous elections are often praised for their various advantages, the implementation in Indonesia has revealed several significant issues since their initial adoption in 2015. These include the heightened risk of simultaneous conflicts, which complicate control measures and result in an excessive workload for officials and the election committee. The contradiction within Indonesia's local election policy represents a recent and noteworthy development, offering valuable lessons for other countries considering transitioning from a sequential local election system to a national simultaneous election model.

C. Conclusion

A legal norm, whether a regulation or a policy, often contains contradictions or paradoxes that affect its interpretation and potential legal implications. These contradictions are referred to as the legal antinomies. The first type of antinomy arises when a legal norm, when applied to a real-life situation, conflicts with other legal norms. Antinomies may also occur at the level of legal principles, resulting from attempts to use multiple legal principles simultaneously.

⁶⁵ Laura Cabeza and Matthias Scantamburlo, "Dual Voting and Second-Order Effects in the Quasi-Simultaneous 2019 Spanish Regional and National Elections," *Revista Espanola de Ciencia Politica* 55 (2021): 13, DOI: 10.21308/recp.55.01.

Such legal antinomy emerged in relation to the 2024 national simultaneous regional head elections. The Regional head election law was designed to improve the previous system of simultaneous elections. It was intended to promote governmental stability and budget efficiency. However, the aim of achieving political stability carried the risk of creating greater instability due to the vacancies that had to be filled by acting regional heads appointed by the central government. Likewise, the pursuit of budget efficiency through the 2024 simultaneous regional head elections conflicted with the principle of legal certainty, as the legally guaranteed term of office for regional heads was shortened.

From the legal antinomy perspective, these contradictions are evident both at the normative level and in applying legal principles. All stakeholders and policymakers must understand and address these antinomies. Therefore, several conditions are proposed to ensure that national simultaneous regional head elections in transitional countries are more constitutional and democratic. First, the elections should include only those regional heads who have completed their term of office by the election date. This would help avoid violations of constitutional rights related to term limits and allow regional heads to perform their duties entirely and without interruption. Second, regional heads whose terms end before the election should be temporarily replaced by the local secretary. This would help prevent conflicts of interest between central and local authorities and support legitimacy and public trust.

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