

**Article History**

Received: 1 Aug 2025

Reviewed: 16 Sep 2025

Accepted: 21 Sep 2025

Published: 30 Sep 2025

Postponement of General Elections in Crisis Situations: Legal Analysis, History, and Implications for Democracy

Nabila Diara Putri^{1*}, Irwan Triadi², M. Adnan Madjid³^{1,2,3} Faculty of National Security, Universitas Pertahanan Republik Indonesia, Indonesia*correspondence email : nabila.putri@kn.idu.ac.id**Abstract**

This study aims to analyze the historical of general election postponements in Indonesia, along with the legal basis and constitutional implications of delaying elections without a legitimate emergency. As the primary instrument of popular sovereignty, elections must be held periodically, fairly, and in accordance with the constitution. In this regard, postponing an election without a solid legal foundation could trigger legitimacy crises and constitutional disputes.

The method used in this study is normative juridical research with a statute, conceptual approach and historical approach, with the data analyzed qualitatively and descriptively.

The novelty of this study lies in its comprehensive review of the historical dynamics and legal framework surrounding election postponements from the era of Parliamentary Democracy to the Reform Era with a specific focus on the legal gap in responding to non-natural disasters such as the COVID-19 pandemic. The findings reveal that election postponements in Indonesia have often been linked to political and security crises, though not always grounded in a democratic legal process.

The results of this study show that the postponement of elections in Indonesia has historically been influenced by political instability, legal ambiguity, and emergency situations, such as armed conflict or the COVID-19 pandemic. Despite these challenges, the legal framework in Indonesia lacks specific provisions regarding systematic election postponement, especially in the case of non-natural disasters. The ambiguity in interpreting terms like "other disturbances" under existing electoral laws has led to varying legal opinions and uncertainty in implementation.

The conclusion of this study is that the postponement of elections can only be justified in the presence of a real and constitutionally recognized state of emergency. The absence of a clear legal framework poses a risk to democratic integrity and public trust. Therefore, the study emphasizes the urgent need to revise and strengthen electoral regulations by clearly outlining the procedures, legal basis, and conditions under which elections may be postponed, ensuring the protection of citizens' constitutional rights in all circumstances.

Keywords: Election Postponement; State of Emergency; Democracy

Abstrak

Penelitian ini bertujuan untuk menganalisis sejarah penundaan pemilihan umum di Indonesia serta menelaah dasar hukum dan implikasi konstitusional dari penundaan pemilu tanpa keadaan darurat yang sah. Pemilu sebagai sarana utama perwujudan kedaulatan rakyat harus diselenggarakan secara berkala, jujur, adil, dan konstitusional. Dalam konteks ini, penundaan pemilu dapat menimbulkan persoalan hukum dan krisis legitimasi jika tidak

memiliki dasar hukum yang kuat.

Metode yang digunakan adalah penelitian yuridis normatif dengan pendekatan perundang-undangan, pendekatan konseptual dan pendekatan sejarah, serta data dianalisis secara kualitatif dan deskriptif-analitis..

Kebaruan dalam penelitian ini adalah kajian komprehensif terhadap dinamika historis dan landasan konstitusional penundaan pemilu dari masa Demokrasi Terpimpin hingga era Reformasi, dengan penekanan khusus pada kekosongan hukum terkait bencana non-alam seperti pandemi COVID-19.

Hasil penelitian menunjukkan bahwa dalam sejarah ketatanegaraan Indonesia, penundaan pemilu sering kali dikaitkan dengan kondisi krisis politik dan keamanan, namun tidak selalu didasarkan pada mekanisme hukum yang demokratis. Penundaan pemilu yang dilakukan tanpa alasan keadaan darurat dan tidak dilandasi oleh mekanisme hukum yang jelas berpotensi menggerus kepercayaan publik, melemahkan legitimasi pemerintahan, dan membuka ruang penyalahgunaan wewenang.

Kesimpulan dari penelitian ini adalah penundaan pemilu hanya dapat dibenarkan apabila terdapat keadaan darurat yang nyata dan diakui secara konstitusional. Ketidakjelasan dalam regulasi hukum saat ini menimbulkan potensi pelanggaran terhadap prinsip-prinsip demokrasi dan melemahkan kepercayaan publik terhadap institusi pemilu. Oleh karena itu, diperlukan pembaruan regulasi pemilu yang secara tegas dan rinci mengatur prosedur, dasar hukum, serta kondisi yang memperbolehkan penundaan pemilu, agar hak-hak konstitusional warga negara tetap terlindungi dalam segala situasi.

Kata kunci: Penundaan Pemilu; Keadaan Darurat; Demokrasi

1. INTRODUCTION

General elections are the main foundation of a democratic system, as they provide opportunities for the public to be directly involved in electing their leaders and representatives. One of the main principles of a democratic system is the implementation of free and fair elections. In Indonesia, the first general election was held in 1955, exactly one decade after the proclamation of independence.

The 1955 elections were held under a parliamentary democracy system, with Burhanuddin Harahap serving as Prime Minister and Soekarno as President. At that time, Indonesia's system of government adopted a liberal democracy model, also known as parliamentary democracy.¹ The voting process at that time was held on September 29, 1955, to elect members of the House of Representatives (DPR), and on December 15, 1955, to elect members of the Constituent Assembly.²

The legal basis for the implementation of the 1955 elections was Law No. 7 of 1953 on the Election of Constituent Assembly Members and Members of the House of Representatives, as amended by Law No. 18 of 1953. In addition, a number of government regulations were also issued as implementing regulations, including Government Regulation No. 9 of 1954 on the Implementation of the Election Law, and Government Regulation No. 47 of 1954 on the

¹ Abdul Majid and Arif Sugitanata, "Sistem Pemilu Sebagai Wujud Demokrasi Di Indonesia: Antara Orde Lama, Orde Baru Dan Reformasi," *Qaumiyah: Jurnal Hukum Tata Negara* 2, no. 1 (2021): 1–21, <https://doi.org/10.24239/qaumiyah.v2i1.18>.

² KPU, "Pemilu 1955," n.d., <https://kota-tangerang.kpu.go.id/page/read/pemilu-1955>.

Procedures for Nominating Members of the DPR/Constituent Assembly by Members of the Armed Forces. This regulation also regulates non-active status or dismissal based on the acceptance of candidacy, as well as prohibiting members of the armed forces from campaigning in elections.³ These regulations collectively formed a legal framework that ensured the 1955 elections were conducted legally, orderly, and in accordance with democratic principles.

The 1955 elections, which were conducted in a legitimate, orderly, and democratic manner, did not necessarily continue into the next period. The next elections, scheduled for 1960, were not held due to Presidential Decree No. 5 of July 1959 issued by President Soekarno. This decree marked the end of the era of Parliamentary Democracy and the beginning of Guided Democracy, which shifted Indonesia's political system from the principles of parliamentary democracy to a system with stronger central power in the hands of the president.⁴

During the Guided Democracy period (1959-1965), elections continued to be postponed due to the political situation, security, and instability at that time. After the fall of Soekarno and the rise of Soeharto through the March 11 Order (Supersemar) on March 11, 1966, Indonesia entered the New Order era and only held elections in 1971.⁵ The experience of election postponements during both the Guided Democracy era and the early New Order era shows that political and security reasons are often used as grounds for postponement, giving rise to debates about the legitimacy and sustainability of democratic principles. These historical dynamics provide important lessons for the present, when a different reason-the non-natural disaster of the COVID-19 pandemic-has become the basis for postponing elections in a number of regions.

The postponement of general elections is a relevant issue at present, especially considering that in 2020 a number of regions in Indonesia were forced to postpone regional elections due to the COVID-19 pandemic. The spread of the virus prompted the government to impose various restrictions on community activities in order to reduce the rate of transmission. Provisions regarding elections are regulated in Law Number 7 of 2017 concerning General Elections. However, this regulation does not explicitly regulate non-natural disasters such as global pandemics as valid reasons for postponing elections. The absence of such regulations creates a significant legal vacuum, especially when the country has to deal with emergency situations that do not fall under the category of natural disasters or social conflicts.

The postponement of regional elections in 2020 due to the Covid-19 pandemic is a concrete example of how the government was forced to respond to the crisis by using an emergency legal framework that was not specifically designed to deal with non-natural

³ KPU, "Pemilu Di Indonesia," *Modul I Pemilihan Untuk Pemula*, 2009, 4-32.

⁴ Dahimatul Afidah, "Meninjau Perjalanan Perumusan Dasar Negara Hingga Penetapan Dekrit Presiden 1959," *Historia Madania: Jurnal Ilmu Sejarah* 7, no. 1 (2023): 67-80, <https://doi.org/10.15575/hm.v7i1.24424>.

⁵ Majid and Sugitanata, "Sistem Pemilu Sebagai Wujud Demokrasi Di Indonesia: Antara Orde Lama, Orde Baru Dan Reformasi."

disasters. This led to the enactment of Government Regulation in Lieu of Law Number 2 of 2020 as the legal basis for the implementation of regional elections in extraordinary circumstances. This step demonstrates the urgent need to update or supplement legislation on elections to cover various possible emergency situations, whether natural, non-natural, or socio-political.

The absence of comprehensive provisions has the potential to cause legal and political debates in the future, especially if the election is postponed without clear procedures and a strong constitutional basis. Therefore, this research is important to encourage the formation of a more responsive and anticipatory legal basis in dealing with various forms of disruption that can hinder the implementation of elections, without neglecting the principles of people's sovereignty and constitutional democracy. Thus, the results of this study are expected to serve as a reference for policymakers, election organizers, and other stakeholders in formulating clear and firm rules regarding elections in emergency situations.

This study focuses on historical and legal analysis as well as the democratic implications of election postponements in Indonesia from the Guided Democracy era to the Reformation era, with an emphasis on legal vacuums related to non-natural disasters such as the COVID-19 pandemic and their constitutional implications. Unlike previous studies, such as the one by Nobella Indradjaja, Muhammad Azzamul Abid, and Vika Andarini entitled *Simultaneous General Elections and the Discourse on Postponing General Elections from the Perspective of the Principles of Indonesian Democracy*, which focused on the concept and implementation of simultaneous elections in Indonesia, including the background to the Constitutional Court's decision, the efficiency of the implementation, and the discourse on postponing elections from the perspective of democratic principles, but did not specifically explore the aspect of legal vacuum related to non-natural disasters.

This study aims to analyze the historical process of election postponement and the political dynamics behind it. It examines the legal basis for the postponement and evaluates the constitutional implications of postponing elections without a valid state of emergency. In this context, this study will answer three main questions: First, what is the history of general election postponement in Indonesia? Second, what is the legal basis governing election postponements in Indonesia? And third, what are the constitutional implications of postponing elections without a state of emergency? By discussing these three questions, this study hopes to contribute in the form of policy recommendations that encourage the improvement of election regulations in a decisive and democratic manner, especially in facing the possibility of election postponements in the future.

2. METHOD

This study uses a normative juridical method by adopting two main approaches. First, the statute approach, which includes an examination of various relevant legal regulations. Second, the conceptual approach, which is an assessment of concepts in legal science, such as sources of law, functions of law, and the existence and role of legal institutions. Third, the historical approach is used to trace the background and development process of regulations

related to the issues under review. Through this approach, researchers can understand the philosophy underlying a legal provision from time to time, while also examining the changes and developments in thinking that led to the creation of the regulation.⁶

The research results are presented in a descriptive-analytical manner. The legal sources used consist of: primary legal materials, namely applicable laws and regulations; secondary legal materials, including supporting literature such as books, scientific articles, legal journals, online references, and other sources related to the research theme; and tertiary legal materials, such as legal dictionaries or encyclopedias, which serve as supplements and explanations for primary and secondary legal materials.⁷

3. DISCUSSION

3.1. History of Postponed Elections in Indonesia

The proclamation of independence on August 17, 1945, marked the beginning of the spirit of democracy in Indonesia, as well as bringing hope for the implementation of general elections (Pemilu) based on adaptive legal regulations. Since the beginning of independence, the Indonesian government has shown a strong commitment to holding general elections as a means of forming a democratic government that reflects the will of the people.

Prior to the amendment, provisions regarding elections were contained in Article 7 of the 1945 Constitution (UUD NRI Tahun 1945), which stated that "The President and Vice President shall hold office for five years and may be re-elected." After the amendment, the provisions regarding elections are set forth in Article 22E of the 1945 Constitution of the Republic of Indonesia, which stipulates that elections shall be held directly, publicly, freely, confidentially, honestly, and fairly every five years.

Provisions regarding the holding of elections every five years are stipulated in the 1945 Constitution of the Republic of Indonesia. Initially, the first election was planned to take place in January 1946. However, the country was still in the midst of the Indonesian National Revolution, making it impossible to realize. After the war ended, every cabinet that was formed always included elections in its work program.

In February 1951, the Natsir Cabinet proposed a draft law on elections, but it was not discussed in parliament because the cabinet fell before it could be done so. The successor cabinet, the Sukiman Cabinet, successfully held a number of local elections. Then, in February 1952, the Wilopo Cabinet submitted a bill on voter registration procedures. However, discussions in the House of Representatives only began in September 1952 due to opposition and objections from various political parties.⁸

Political parties expressed their objections based on three points: First, members of parliament were concerned about losing their positions in the legislature. Second, there were concerns that Islamic parties would gain greater support. Third, the electoral system stipulated in the 1950 Provisional Constitution was considered to have the potential to reduce

⁶ Bahder Johan Nasution, *Metode Penelitian Ilmu Hukum* (Bandung: CV Mandar Maju, 2008).

⁷ Peter Mahmud Marzuki, *Penelitian Hukum (Edisi Revisi)* (Jakarta: Kencana, 2017).

⁸ ArsipnasionalRI, "Guide Arsip Pemilihan Umum 1955 - 1999 Arsip Nasional Republik Indonesia," 2015.

representation from regions outside Java. Despite these objections, the Election Law was finally passed through Law No. 7 of 1953 on the Election of Constituent Assembly Members and DPR Members, as amended by Law No. 18 of 1953.⁹

The first elections in Indonesia were held in 1955 based on the provisions of Law No. 7 of 1953. The elections held were for members of the House of Representatives on September 29, 1955, and members of the Constituent Assembly on December 15, 1955. Meanwhile, elections for members of the Regional House of Representatives were held in June and July 1957. In the 1955 elections, there were 172 symbols representing political parties, community organizations, and independent candidates. Based on the results of the DPR and Constituent Assembly elections, the five parties with the most votes were Masyumi, Nahdlatul Ulama (NU), the Indonesian National Party (PNI), the Indonesian Islamic Party (PSII), and the Indonesian Communist Party (PKI).¹⁰

On election day, a large number of voters were ready to cast their ballots from 7 a.m. The atmosphere on that day was calm, as the public felt confident that the situation would remain safe and under control. Voter turnout was very high, with 91.54% of voters coming to the polling stations and 87.65% of them casting valid votes. Only about 6% of voters did not exercise their right to vote.¹¹ These elections were considered the beginning of democracy in Indonesian history. The multiparty system that was in place reflected the pluralism of Indonesian society. However, political instability due to frequent cabinet changes and the difficulty of reaching agreement in the Constituent Assembly led to a political crisis that culminated in the Presidential Decree of July 5, 1959.

It began with the issuance of Presidential Decree No. 5 of July 1959, which ended parliamentary democracy. This decree contained a statement that Indonesia would return to the 1945 Constitution and dissolve the Constituent Assembly, thereby preventing the elections that were supposed to be held in 1959 from taking place. This period is known as the Guided Democracy era, led by President Soekarno. The 1959 Decree was issued in response to the practice of parliamentary democracy, which at that time caused various serious problems that threatened the unity and integrity of the nation. Some of the symptoms that emerged were provincialism, separatist movements, and government instability due to frequent cabinet changes, starting from the Natsir cabinet in 1950 to the Juanda cabinet in 1959.¹²

A crucial factor that prompted President Soekarno to issue a presidential decree in 1959 was the Constituent Assembly's failure to draft a new constitution. The Constituent Assembly's inability to reach an agreement during its sessions between 1957 and 1959 exacerbated the national political situation and raised concerns about the potential disintegration of the nation.

⁹ Yudi Widagdo Harimurti, "Penundaan Pemilihan Umum Dalam Perspektif Demokrasi," *Rechtidee* 17, no. 1 (2022): 1–25, <https://doi.org/10.21107/ri.v17i1.14298>.

¹⁰ Ida Budhiati Topo Santoso, *Pemilu Di Indonesia: Kelembagaan, Pelaksanaan, Dan Pengawasan* (Jakarta: Sinar Grafika, 2019).

¹¹ Nur Hidayat Sardini, *Restorasi Penyelenggaraan Pemilu Di Indonesia* (Yogyakarta: Fajar Media Press, 2011).

¹² Ferdiansyah Hanafi and Iswandi, "Analisis Konstitusionalitas Dekrit Presiden 5 Juli 1959 Menurut Hukum Tata Negara Indonesia," *Limbago: Journal of Constitutional Law* 1, no. 3 (2021): 431–48, <https://doi.org/10.22437/limbago.v1i3.15358>.

At the same time, unrest began to emerge in various regions, marked by the formation of several councils such as the Banteng Council, the Gajah Council, the Garuda Council, the Manguni Council, and the Mangkurat Council since 1956. This tension then developed into the PRRI/Permesta movement and the emergence of the idea to establish the United Republic of Indonesia (RPI).¹³

The failure of the Constituent Assembly in its third session further worsened the situation, exacerbated by the boycott of a number of factions such as the PNI and PKI, which decided to no longer attend the sessions. This situation had a serious impact on the state administration system, threatened national unity, and hampered development. In response to the crisis, President Soekarno issued the Presidential Decree of July 5, 1959, which also resulted in the 1959 elections not being held.¹⁴

During the guided democracy era, the role of political parties weakened and decision-making was dominated by the President. The postponement of elections caused a vacancy in the DPR, prompting the President to form a temporary DPR, namely the Gotong Royong People's Representative Council (DPR-GR), through Presidential Decree No. 4 of 1960. The DPR-GR functioned to form Presidential Decrees and draft bills.

After the dissolution of the Constituent Assembly in 1959, the government submitted an Election Bill, but this bill never received a final decision. Based on this, elections were not held during this period.¹⁵ Centralization of power emerged with military support and the formation of the Nasakom (Nationalist, Religious, Communist) concept as an effort to unite various ideologies in Indonesia. However, ideological tensions, particularly the G30S/PKI incident in 1965, prevented elections from being held until the resignation of Soekarno, which marked the beginning of President Soeharto's New Order era.¹⁶

In 1966, the Provisional People's Consultative Assembly (MPRS) issued Decree No. XI/MPRS/1966 regulating the implementation of general elections. Article 1 of the decree stipulated that the general election must be held no later than July 5, 1968. Meanwhile, Article 2 explained that the law on general elections and the law governing the composition of the MPR, DPR, and DPRD must be completed within six months after the decree was enacted.

As a follow-up, the government drafted an Election Bill. However, the bill was rejected by the KAMI (Indonesian Student Action Union) Conference and representatives of the Bandung Consulate, as it was considered to be contrary to the Tritura (Three People's Demands) and the spirit of reform promoted by the New Order. As a result of these various rejections, President Soeharto finally issued Decree No. XLII/MPRS/1968, which officially postponed the elections until July 5, 1971, at the latest.¹⁷

Elections kept getting delayed because of conflicting interests. The relationship between

¹³ Hanafi and Iswandi.

¹⁴ Yudi Widagdo Harimurti, "Penundaan Pemilihan Umum Dalam Perspektif Demokrasi."

¹⁵ Mahfud Md, *Politik Hukum Indonesia* (Depok : Rajawali Pers, 2020).

¹⁶ RRI, "Sejarah Singkat Demokrasi Dan Pemilu Di Indonesia" (<https://rri.co.id/pemilu/1151282/sejarah-singkat-demokrasi-dan-pemilu-di-indonesia>, 2024).

¹⁷ Mahfud Md, *Politik Hukum Indonesia*.

political parties and the military during the transition to the New Order was really careful. The parties that had achieved success in the 1955 elections, the only elections during the era of President Soekarno, saw an opportunity to win the public support that had previously been abandoned by the PKI, a large party that had been disbanded and banned through MPRS Decree No. XXV/MPRS/1966.¹⁸ Meanwhile, the military remained highly vigilant. They did not want the political power they had successfully seized after 1965 to be undermined by the election results. The military wanted assurances that the New Order political forces rooted in military institutions would remain victorious in the elections before the democratic process was formally implemented.

During the New Order era, the military wanted elections to be held using a district system and proposed that ABRI officers be appointed as members of the MPR and DPR. On the other hand, political parties pushed for the use of a proportional system in elections and rejected the military's proposal to appoint a large number of its representatives to parliament. After a process of negotiation, the two sides finally reached an agreement on June 27, 1967.

In the agreement, the government agreed to hold elections using a proportional representation system. In return, political parties accepted that the government could appoint ABRI representatives to make up one-third of the MPR and 100 of the 460 members of the DPR. Finally, both agreements were incorporated into Law No. 15 of 1969 on Elections and Law No. 16 of 1969 on the Structure and Position of the MPR/DPR/DPRD.¹⁹

In 1971, Indonesia's second election was held every five years as scheduled, but under strict government control. This system stifled political pluralism. Democracy was implemented in a formalistic manner, while political freedom was suppressed. Electoral fraud and restrictions on people's freedom led to criticism of the New Order system. The economic crisis and massive protests in 1998 finally forced Suharto to resign.

The political changes following the 1998 reform brought a new era for the implementation of elections in Indonesia with a more democratic and transparent system. During the reform period, elections were held directly, honestly, fairly, and freely, in accordance with the mandate of Article 22E of the amended 1945 Constitution. This was marked by the first elections in 1999, which successfully ended the New Order era and provided opportunities for new political parties and the public to participate in the democratic process.

During the reform era, elections were held regularly every five years, with improvements in the quality of implementation and stricter supervision to ensure the validity of the results and prevent fraud. Despite still facing various challenges such as money politics and polarization, elections in Indonesia continue to be an important instrument in maintaining the legitimacy of the government and the will of the people as the core of democracy.

3.2. Legal Basis for Postponing General Elections in Indonesia

General elections are regulated by Law No. 7 of 2017, which includes provisions on

¹⁸ Sofyan Kriswantoni, "General Election Implementation In Indonesia's National History In The Order Of New And Reform" 2, no. 2 (2018): 31–43, <https://doi.org/ejournal.unibabwi.ac.id/index.php/santhe/article/view/685>.

¹⁹ Mahfud Md, *Politik Hukum Indonesia*.

follow-up elections and supplementary elections as stipulated in Articles 431 and 432. These articles explain that follow-up or supplementary elections may be held if there are disturbances in part or all of the territory of the Unitary State of the Republic of Indonesia, such as riots, security disturbances, natural disasters, or other obstacles that prevent the election stages from being carried out as they should be. Postponement is only possible within a constitutional legal framework, so it cannot be carried out without a state of emergency (*staatnoodrecht*).²⁰

In extraordinary circumstances or emergency situations, the applicable legal system must be adjusted to the emergency mechanisms and authorities in emergency constitutional law, namely a set of special rules and authorities that are activated to deal with serious threats. The purpose of this system is to overcome the crisis and restore the country to normal conditions as quickly as possible, in accordance with applicable legal provisions.

According to Prof. Herman Shihombing, a state of emergency is a crisis situation that requires the use of special state apparatus and authority, with the main objective of dealing with dangerous threats and restoring the situation to normal as quickly as possible, but still within the limits of the law and applicable regulations.²¹ Meanwhile, Prof. Jimly Asshiddiqie explained that a state of emergency is a dangerous situation that arises suddenly and threatens public order, thereby compelling the state to take unusual measures or deviate from legal procedures that apply under normal conditions.²²

The legal basis for states of emergency in Indonesia is contained in Articles 12 and 22 of the 1945 Constitution of the Republic of Indonesia. Article 12 states that the President has the authority to declare a state of emergency, with the proviso that the conditions and consequences of such a declaration are regulated by law. Meanwhile, Article 22 paragraph (1) states that in a situation of compelling urgency, the President may issue a Government Regulation in Lieu of Law. Paragraph (2) emphasizes that Government Regulations in Lieu of Laws must obtain approval from the House of Representatives (DPR) in the next session, and paragraph (3) states that if not approved, the Government Regulations in Lieu of Laws must be revoked.

These provisions regulate the role and authority of the President as head of state and government, and establish the rights of the House of Representatives in the process of approving the formation of Government Regulations in Lieu of Laws. Therefore, the postponement of general elections can only be justified if there is an emergency or compelling circumstances based on the constitution and applicable laws and regulations.²³ Based on the

²⁰ Chrisdianto Eko Purnomo Aryanda Permana, Gatot Dwi Hendri H.W, "Pengaturan Penetapan Penundaan Pelaksanaan Pemilihan Umum Dalam Perspektif Hukum Tata Negara Darurat" 2, no. 2 (2023), <https://doi.org/10.29303/diskresi.v2i2.3675>.

²¹ Fitri Atur Arum and Enika Maya Oktavia, "Implementasi Keadaan Darurat Indonesia: Inkonsisten Penerapan Keadaan Darurat," *El-Wasathiya: Jurnal Studi Agama* 11, no. 2 (2023): 66–82, <https://doi.org/10.35888/el-wasathiya.v11i2.5543>.

²² Jimly Asshiddiqie, *Hukum Tata Negara Darurat* (Jakarta: Rajawali Pers, 2007).

²³ Binsar Gultom, *Pelanggaran HAM Dalam Hukum Keadaan Darurat Di Indonesia* (Jakarta: PT Gramedia Pustaka Utama, 2010).

provisions of the Election Law, the only valid reason for holding a follow-up election or a supplementary election is a state of emergency. However, the Election Law does not include non-natural disasters as a consideration. In fact, from 2020 to 2021, Indonesia and many other countries experienced the COVID-19 pandemic, a non-natural disaster that had a major impact in various fields, including the economy, society, and politics.

The lack of clarity in regulations regarding non-natural disasters such as pandemics poses serious challenges to the implementation of democratic and fair elections. When an emergency situation is not explicitly regulated by law, election organizers and the government face difficulties in determining legitimate and appropriate strategic measures. This can lead to legal uncertainty, which in turn has the potential to undermine public confidence in the electoral process, especially if decisions regarding the postponement or modification of elections are considered non-transparent or closed to public scrutiny. Therefore, it is necessary to revise and clarify the rules covering types of non-natural disasters as factors of emergency status, so that the implementation of elections can run flexibly but still based on legal certainty and democratic principles.

Furthermore, the inclusion of non-natural disasters in the electoral legal framework also requires the strengthening of checks and balances mechanisms to prevent potential abuse of power. These mechanisms include the involvement of electoral supervisory bodies, the active role of the legislature in decision-making related to election postponements, and comprehensive transparency in public communications. Thus, every step taken in non-natural emergency conditions is not only responsive and adaptive, but also accountable and constitutionally justifiable. This approach is important so that the democratic process remains protected and the people do not lose their political rights even when faced with complex crises such as a global pandemic.

The legal vacuum regarding non-natural disasters has led to debate over the interpretation of "other disturbances" in the context of Articles 431 and 432 of the Election Law. The ambiguity surrounding the scope of the phrase "other disturbances" has caused a tug-of-war between two different views in the field of constitutional law. The first group argues that an inclusive and flexible interpretation is necessary for the state to respond to various forms of crises that are not explicitly mentioned in the law, including non-natural disasters such as global pandemics. They consider that the COVID-19 pandemic, which has had a widespread and profound impact on social, economic, and political aspects, clearly constitutes "other disturbances" in a contextual sense, thus allowing for adjustments to the election schedule and mechanisms to protect public safety while maintaining the continuity of democracy.²⁴

Conversely, the group opposing this broadening of meaning emphasizes the importance of legal certainty and clarity in the context of democratic institutions. According to them, an overly broad definition could open the door for the government or organizers to delay

²⁴ Silalahi Wilma, "Konstitusionalitas Penundaan Pelaksanaan Pemilu 2020," *Electoral Governance Jurnal Tata Kelola Pemilu Indonesia* 2, no. 1 (2020): 41–55, www.jurnal.kpu.go.id.

elections without clear reasons of urgency, potentially allowing it to be used as a political tool to extend terms of office or avoid public scrutiny.²⁵ Therefore, they demand rigorous legal review and transparent democratic procedures before an incident is categorized as "other disturbances" that justify postponing elections. Their main focus is to maintain the integrity of the democratic process and prevent manipulation of power that could damage the credibility of electoral institutions and the legitimacy of the elected government.²⁶

In addition, the debate also opened up discussion on the need for legal reforms that explicitly accommodate various forms of non-natural disasters, so that elections can be more adaptive without sacrificing the principles of legality and democracy. The establishment of clear rules will provide a constitutional basis for the government and election organizers to make strategic decisions in times of crisis, while also providing a strong oversight mechanism to ensure that these decisions remain accountable and responsible to the public and the legislature.

Thus, strict and detailed regulations regarding the definition and procedures for dealing with "other disturbances" are essential to balance the need for a rapid response to emergency situations with the continuity of democratic principles as the foundation of the rule of law. This also avoids legal ambiguities that are prone to exploitation and maintains public trust in the general election system as a reflection of people's sovereignty.

Within the Indonesian constitutional framework, the postponement of elections must be based on the principles of proportionality and greater interest. The Constitutional Court itself has stated explicitly in several of its decisions that citizens have a constitutional right to vote and be elected, which cannot be set aside except in truly urgent and compelling circumstances.²⁷ Therefore, arguments for postponing elections based solely on economic or practical political considerations without any real threat to the safety of citizens cannot be justified constitutionally. The principle of proportionality has proven relevant when Indonesia and various other countries around the world have been faced with the challenges of the COVID-19 pandemic, which has created an urgent need to postpone the election stages in order to protect the safety of citizens without neglecting democratic principles.

The simultaneous regional elections in 2020, which were postponed due to the COVID-19 pandemic, provided valuable lessons in the context of conducting elections during a state of emergency. In 2020, 80 countries and territories around the world postponed national and local elections due to the public health risks posed by the pandemic.²⁸ Some of these countries

²⁵ Srye Micze Ridua, Jemmy Jefry Pietersz, and Hendry John Piris, "Penundaan Pemilihan Umum Dalam Sistem Ketatanegaraan Indonesia," *TATOHI: Jurnal Ilmu Hukum* 3, no. 6 (2023): 615, <https://doi.org/10.47268/tatohi.v3i6.1821>.

²⁶ Andi Muh and Riski Ad, "Konstitusionalitas Penundaan Pemilihan Umum Di Indonesia," *Al Mizan* 20, no. 1 (2024): 97–116, <https://doi.org/10.30603/am.v20i1.4740>.

²⁷ Putusan Mahkamah Konstitusi Nomor 92/PUU-XIV/2016 berkaitan dengan uji materi Undang-Undang Nomor 10 Tahun 2016 tentang Perubahan Kedua Atas Undang-Undang Nomor 1 Tahun 2015 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2016 tentang Pemilihan Kepala Daerah.

²⁸ IDEA, "Global Overview of Covid-19: Impact on Elections," 2022, <https://www.idea.int/news-media/multimedia-reports/global-overview-covid-19-impact-elections>.

are Australia, which postponed local elections and legislative elections; Poland, which postponed presidential elections; Argentina, which postponed legislative elections; and Bolivia, which postponed presidential and legislative elections.²⁹ This shows that postponing elections during a global health crisis is not a practice that is unique to Indonesia, but rather a global phenomenon that requires an adaptive and constitutional legal response.

The postponement of regional elections in Indonesia is based on Government Regulation in Lieu of Law Number 2 of 2020, which was later ratified into Law Number 6 of 2020. This regulation is the third amendment to Law No. 1 of 2015, which stipulates that Government Regulation in Lieu of Law No. 1 of 2014 concerning the Election of Governors, Regents, and Mayors becomes law. The law clearly states that non-natural disasters can be used as a legal basis for postponing regional head elections.

Indonesia regulates follow-up elections in Article 120 of the Regional Election Law, which states that if riots, security disturbances, natural disasters, non-natural disasters, or other disturbances occur in part or all of the electoral area, preventing the election from proceeding, then a follow-up election or simultaneous follow-up election may be held. This provision provides legal legitimacy for the postponement of election stages, either partially or completely, in crisis situations that disrupt the election process.

Meanwhile, unlike regulations concerning regional elections in the context of national elections, the existing legal framework does not explicitly regulate the postponement of elections due to non-natural disasters such as pandemics. This indicates a legal vacuum that could cause uncertainty in the implementation of elections in the event of extraordinary circumstances. Therefore, it is necessary to revise or amend the Election Law to accommodate various emergency scenarios in the future. This revision must include a more detailed and comprehensive classification of conditions that are valid grounds for postponing elections, including non-natural disasters, as well as ensuring clear, transparent, and accountable decision-making mechanisms to guarantee that democracy continues to function under any circumstances without sacrificing the constitutional rights of citizens.

3.3. Constitutional Implications of Postponing Elections Without a State of Emergency

General elections are one of the most fundamental forms of realizing the human rights of every citizen. Therefore, the government is obliged to ensure that elections are held on time. In line with the principle of popular sovereignty, whereby the highest power rests with the people, all stages and mechanisms of the elections must reflect the aspirations of the people and be under their supervision and control. If the government fails to organize elections, postpones them without the approval of the representative body of the people, or is passive so that the elections are not carried out as they should be, such actions can be considered a violation of human rights.³⁰

In this regard, elections, which are a fundamental right, must be guaranteed by the

²⁹ Fikri Ahsan et al., "The Postponed Regional Head Elections in Emergency Situations: A Constitutional Democracy Perspective in Indonesia," *Yustisia* 12, no. 2 (2023): 202–18, <https://doi.org/10.20961/yustisia.v12i2.64638>.

³⁰ Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara* (Depok: Rajawali Pers, 2024).

government. Failure to hold elections will have several implications. One of the most fundamental implications of postponing elections is the potential disruption of the principle of popular sovereignty. In a democratic system, the people hold the highest sovereignty, which is realized through regular and free elections. Postponing elections can be considered a temporary restriction on the people's right to elect their leaders, raising questions about the legitimacy of the current government and its future.

Postponing elections as a sign of a state of emergency has the potential to erode public trust in democratic institutions, including electoral management bodies, the government, and even the legal system itself. If the postponement is perceived as non-transparent, non-accountable, or driven by certain political interests, it could trigger demonstrations, protests, and polarization within society. In the context of developing a more democratic legal system, postponing elections can be a test of the maturity and resilience of democratic institutions.³¹ The ability of the legal system to address potential abuses of power and guarantee the constitutional rights of citizens in situations where elections are postponed plays an important role in shaping the quality of democracy in the future.

From a human rights perspective, the right to vote and be elected is an essential part of political rights that must be guaranteed by the state. The concept of constitutional democracy emphasizes that the exercise of people's sovereignty, one of which is realized through elections, must be based on the constitution. Thus, postponing elections can only be justified if it is based on clear and explicit constitutional provisions. The absence of legal certainty in conducting elections will create a "democratic vacuum," where the people's right to participate in government is hampered.³²

The doctrine of democracy asserts that sovereignty resides with the people; thus, failure to meet the election schedule constitutes a direct violation of that sovereignty.³³ Postponing elections without a state of emergency can also affect social stability, as it creates political uncertainty and triggers tensions between the government and the public, as well as between political groups. In Indonesia's political history, political tensions and crises have arisen when election schedules were changed or postponed without transparent and constitutional reasons, as was the case during the Old Order and New Order eras.

The absence of firm legal action regarding the postponement of the elections could weaken the rule of law and reinforce a culture of impunity among state officials. Therefore, it is essential to increase the capacity of election supervisory bodies, including the KPU and Bawaslu, in order to maintain the integrity of and compliance with the election schedule. Academically, democracy experts argue that transparency and accountability are key to maintaining public trust in the election process, especially in situations of postponement. A

³¹ Ayon Diniyanto, "Penundaan Pemilihan Umum Di Negara Hukum: Kajian Demokrasi Konstitusional," *Negara Hukum* 13, no. 2 (2022): 227–45, <https://doi.org/10.22212/jnh.v13i2.3365>.

³² Diniyanto.

³³ Ida Ayu Sintya Wulandari, I Wayan Rideng, and Luh Putu Suryani, "Sanksi Pidana Dalam Tindak Pidana Pemilu Terkait Dengan Asas Lex Specialis Derogate Legi Generali," *Jurnal Konstruksi Hukum* 4, no. 3 (2023): 354–59, <https://doi.org/10.55637/jkh.4.3.8060.354-359>.

legitimate postponement of elections must be accompanied by clear public communication, reasonable explanations, and a definite time frame so that the public does not experience prolonged political uncertainty.

In the context of crises such as the COVID-19 pandemic, various countries have adjusted their election schedules while remaining grounded in the law and broad public consultation, as well as guarantees of free and fair elections.³⁴ The policy model of postponing elections without an emergency reason not only hinders democracy, but also undermines the constitutional order that has been painstakingly built since the reform. To prevent this kind of postponement, legal reforms are needed to clearly regulate the conditions and procedures for postponing elections, so that there is no room for abuse of authority. Political education and public legal awareness also play an important role in ensuring that any postponement of elections is closely monitored by the public and independent institutions, so that the potential for violations can be minimized.

Certain extraordinary circumstances, such as major natural disasters, global pandemics, or emergencies that threaten national security, may make postponing elections a difficult but unavoidable choice. In such situations, postponement must be carried out with great care, transparency, and accountability, with assurances that elections will be held as soon as conditions allow. Postponing elections should be a last resort, not a strategy for maintaining power. Every decision must consider the principles of fairness, accountability, and public participation as key values in a democratic country. By improving the legal system, strengthening supervisory institutions, and increasing public political awareness, Indonesia can build democratic, adaptive, and crisis-resistant election mechanisms without sacrificing the basic rights of the people.

4. CONCLUSION

The postponement of general elections in Indonesia has complex historical roots and is closely related to political dynamics and emergency conditions that affect the stability of the country. Historically, the postponement of elections in Indonesia occurred during the Guided Democracy era and the early New Order due to political instability and the lack of regulations supporting periodic elections. The legal basis for postponing elections is regulated in the 1945 Constitution and Law No. 7 of 2017, specifically in the articles regulating follow-up and subsequent elections. However, from a legal perspective, there is still a void in regulations that explicitly govern the postponement of national elections due to non-natural disasters, creating uncertainty and the potential for a constitutional legitimacy crisis if elections are postponed without a clear state of emergency. The constitutional implications of postponing elections without an emergency reason include the obstruction of citizens' constitutional rights, the weakening of the principle of people's sovereignty, and the potential for political tension. Therefore, the advice that can be given is the importance of reformulating election law in the form of a revision to Law Number 7 of 2017 by adding a clear clause regarding emergency

³⁴ Rizki Bagus Prasetio, "Pandemi Covid-19: Perspektif Hukum Tata Negara Darurat Dan Perlindungan HAM," *Jurnal Ilmiah Kebijakan Hukum* 15, no. 2 (2021): 327, <https://doi.org/10.30641/kebijakan.2021.v15.327-346>.

conditions, including non-natural disasters, as a valid basis for postponing elections. Therefore, it is necessary to update election regulations that explicitly stipulate the procedures, requirements, and authorities in dealing with election postponements, in order to ensure the continuity of a fair and constitutional democratic system in the future. This regulatory update must be aimed at guaranteeing the protection of citizens' political rights and strengthening the integrity of democracy in various crisis situations.

REFERENCE

- Afidah, Dahimatul. "Meninjau Perjalanan Perumusan Dasar Negara Hingga Penetapan Dekrit Presiden 1959." *Historia Madania: Jurnal Ilmu Sejarah* 7, no. 1 (2023): 67–80. <https://doi.org/10.15575/hm.v7i1.24424>.
- Ahsan, Fikri, Wahyu Andrianto, Djarot Dimas Achmad Andaru, and Mohamad Hanapi. "The Postponed Regional Head Elections in Emergency Situations: A Constitutional Democracy Perspective in Indonesia." *Yustisia* 12, no. 2 (2023): 202–18. <https://doi.org/10.20961/yustisia.v12i2.64638>.
- ArsipnasionalRI. "Guide Arsip Pemilihan Umum 1955 - 1999 Arsip Nasional Republik Indonesia," 2015.
- Aryanda Permana, Gatot Dwi Hendri H.W, Chrisdianto Eko Purnomo. "Pengaturan Penetapan Penundaan Pelaksanaan Pemilihan Umum Dalam Perspektif Hukum Tata Negara Darurat" 2, no. 2 (2023). <https://doi.org/10.29303/diskresi.v2i2.3675>.
- Binsar Gultom. *Pelanggaran HAM Dalam Hukum Keadaan Darurat Di Indonesia*. Jakarta: PT Gramedia Pustaka Utama, 2010.
- Diniyanto, Ayon. "Penundaan Pemilihan Umum Di Negara Hukum: Kajian Demokrasi Konstitusional." *Negara Hukum* 13, no. 2 (2022): 227–45. <https://doi.org/10.22212/jnh.v13i2.3365>.
- Fitri Atur Arum, and Enika Maya Oktavia. "Implementasi Keadaan Darurat Indonesia: Inkonsisten Penerapan Keadaan Darurat." *El-Wasathiya: Jurnal Studi Agama* 11, no. 2 (2023): 66–82. <https://doi.org/10.35888/el-wasathiya.v11i2.5543>.
- Hanafi, Ferdiansyah, and Iswandi. "Analisis Konstitusionalitas Dekrit Presiden 5 Juli 1959 Menurut Hukum Tata Negara Indonesia." *Limbago: Journal of Constitutional Law* 1, no. 3 (2021): 431–48. <https://doi.org/10.22437/limbago.v1i3.15358>.
- IDEA. "Global Overview of Covid-19: Impact on Elections," 2022. <https://www.idea.int/news-media/multimedia-reports/global-overview-covid-19-impact-elections>.
- Jimly Asshiddiqie. *Pengantar Ilmu Hukum Tata Negara*. Depok: Rajawali Pers, 2024.
- Jimly Asshiddiqie. *Hukum Tata Negara Darurat*. Jakarta: Rajawali Pers, 2007.
- KPU. "Pemilu 1955," n.d. <https://kota-tangerang.kpu.go.id/page/read/pemilu-1955>.
- KPU. "Pemilu Di Indonesia." *Modul I Memilih Untuk Pemula*, 2009, 4–32.
- Mahfud Md. *Politik Hukum Indonesia*. Depok : Rajawali Pers, 2020.
- Majid, Abdul, and Arif Sugitanata. "Sistem Pemilu Sebagai Wujud Demokrasi Di Indonesia: Antara Orde Lama, Orde Baru Dan Reformasi." *Qaumiyah: Jurnal Hukum Tata*

- Negara* 2, no. 1 (2021): 1–21. <https://doi.org/10.24239/qaumiyyah.v2i1.18>.
- Muh, Andi, and Riski Ad. "Konstitusionalitas Penundaan Pemilihan Umum Di Indonesia." *Al Mizan* 20, no. 1 (2024): 97–116. <https://doi.org/10.30603/am.v20i1.4740>.
- Nasution, Bahder Johan. *Metode Penelitian Ilmu Hukum*. Bandung: CV Mandar Maju, 2008.
- Peter Mahmud Marzuki. *Penelitian Hukum (Edisi Revisi)*. Jakarta: Kencana, 2017.
- Prasetio, Rizki Bagus. "Pandemi Covid-19: Perspektif Hukum Tata Negara Darurat Dan Perlindungan HAM." *Jurnal Ilmiah Kebijakan Hukum* 15, no. 2 (2021): 327. <https://doi.org/10.30641/kebijakan.2021.v15.327-346>.
- Ridua, Srye Micze, Jemmy Jefry Pietersz, and Hendry John Piris. "Penundaan Pemilihan Umum Dalam Sistem Ketatanegaraan Indonesia." *TATOH: Jurnal Ilmu Hukum* 3, no. 6 (2023): 615. <https://doi.org/10.47268/tatohi.v3i6.1821>.
- RRI. "Sejarah Singkat Demokrasi Dan Pemilu Di Indonesia." <https://rri.co.id/pemilu/1151282/sejarah-singkat-demokrasi-dan-pemilu-di-indonesia>, 2024.
- Sardini, Nur Hidayat. *Restorasi Penyelenggaraan Pemilu Di Indonesia*. Yogyakarta: Fajar Media Press, 2011.
- Silalahi Wilma. "Konstitusionalitas Penundaan Pelaksanaan Pemilu 2020." *Electoral Governance Jurnal Tata Kelola Pemilu Indonesia* 2, no. 1 (2020): 41–55. www.journal.kpu.go.id.
- Sofyan Kriswanti. "General Election Implementation In Indonesia's National History In The Order Of New And Reform" 2, no. 2 (2018): 31–43. <https://doi.org/ejournal.unibabwi.ac.id/index.php/santhe/article/view/685>.
- Topo Santoso, Ida Budhiati. *Pemilu Di Indonesia: Kelembagaan, Pelaksanaan, Dan Pengawasan*. Jakarta: Sinar Grafika, 2019.
- Wulandari, Ida Ayu Sintya, I Wayan Rideng, and Luh Putu Suryani. "Sanksi Pidana Dalam Tindak Pidana Pemilu Terkait Dengan Asas Lex Specialis Derogate Legi Generali." *Jurnal Konstruksi Hukum* 4, no. 3 (2023): 354–59. <https://doi.org/10.55637/jkh.4.3.8060.354-359>.
- Yudi Widagdo Harimurti. "Penundaan Pemilihan Umum Dalam Perspektif Demokrasi." *Rechtidee* 17, no. 1 (2022): 1–25. <https://doi.org/10.21107/ri.v17i1.14298>.
- Undang-undang Dasar Negara Republik Indonesia Tahun 1945.
- Undang-undang Nomor 7 Tahun 2017 Tentang Pemilihan Umum. Lembaran Negara Republik Indonesia Nomor 182 Tahun 2017. Tambahan Lembaran Negara Republik Indonesia Nomor 6109.
- Peraturan Pemerintah Pengganti Undang-undang Nomor 2 Tahun 2020 tentang Perubahan Ketiga atas Undang-Undang Nomor 1 Tahun 2015 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2014 Tentang Pemilihan Gubernur, Bupati, dan Walikota Menjadi Undang-Undang. Lembaran Negara Republik Indonesia Nomor 128 Tahun 2020. Tambahan Lembaran Negara Republik Indonesia Nomor 6512.

Putusan Mahkamah Konstitusi Nomor 92/PUU-XIV/2016 berkaitan dengan uji materi Undang-Undang Nomor 10 Tahun 2016 tentang Perubahan Kedua Atas Undang-Undang Nomor 1 Tahun 2015 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2016 tentang Pemilihan Kepala Daerah.