



Type: **Research Article**

Can National Strategy Sidestep Civil and Political Rights? Case of Indonesia's 2024 Simultaneous Regional Elections

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ABSTRACT

Keywords

Civil and political rights

Democracy

Indonesia

Interim Regional Heads

Simultaneous regional elections

The policy of transitioning to simultaneous elections in 2024 has given rise to polemics regarding human rights and democracy. There is no justification for the government to disregard citizens' civil and political rights in appointing interim regional heads. This research seeks to examine the phenomenon of the appointment of interim regional heads as an integral part of fulfilling civil and political rights. By using legal doctrinal research methods, this research demonstrates that the process of appointing interim regional heads is problematic. The government only relies on one regulation while ignoring the others, such as recommendations from government and non-governmental organisations. As a result, the appointment of interim regional heads appears less democratic, potentially leading to actions taken behind closed doors which disregard the involvement of public participation. This indicates that the centralised appointment of interim regional heads is more politically driven than merely focused on the effectiveness and efficiency of the governing process.

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1. Introduction

In the past, particularly after the fall of the New Order regime, Indonesia was known as a country deemed relatively stable in upholding democracy ([Asrinaldi & Yusoff, 2023](#); [Kristiyanto et al., 2023](#); [Setiawan & Tomsa, 2023](#); [Umar, 2023](#); [Aspinall & Warburton, 2018](#)). International scholars such as Larry Diamond appreciated Indonesia for reaching a level of stable democracy without significant imminent threats ([Diamond, 2010](#)). Constitutional amendments from 1999 to 2022 have also had a positive momentum, as they incorporated democratic values and human rights principles into the highest fundamental law, the 1945 Constitution of the Republic of Indonesia (*Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*, hereinafter referred to as the 1945 Constitution) ([Ahdanisa & Rothman, 2021](#)).



However, in recent years, some experts have changed their views. As Eve Warburton and Edward Aspinall revealed, Indonesia faces the threat of democratic regression caused by the rise of populism and illiberalism affecting individual freedoms (Warburton & Aspinall, 2019). Another scholar, Yoes C. Kenawas, drew attention to the increasing spread of political dynasties in various regions that could lead to democratic decline (Kenawas, 2015, 2023). Studies conducted by the national press alliance (*Aliansi Jurnalis Independen/AJI*) exposed cases of violence against media and journalists, misuse of the ITE Law, and actual terror against some social media accounts, posing a real threat to the quality of Indonesia's democracy (Ningtyas et al., 2021). Assessments from international institutions such as Freedom House (House, 2022), The Economist Intelligence Index (Economist, 2023), and V-Dem (Institute, 2023) also justify the claim that Indonesia is experiencing a democratic decline.

Signs of democratic decline are also detected in the implementation of simultaneous regional elections. The basis for conducting simultaneous regional elections is Article 3, paragraph (1) of Law Number 1 of 2015. Simultaneous regional elections involve the election of governors, regents, and mayors at the same time across the entire territory of Indonesia. Based on Constitutional Court Decision Number 14/PUU-XVI/2013, simultaneous elections aim to make financing more efficient, reduce time wastage, minimise conflicts or horizontal tensions in society, and build a map of checks and balances. Creating a map of checks and balances means that voters choose the president and vice president along with members of the House of Representatives, Regional Representatives Council, and Regional Legislative Council simultaneously, allowing voters to form an ideal, deliberative executive and legislative institution that is not centralised to one or a group of political parties.

Furthermore, simultaneous elections have proven to increase public participation amid the declining average participation. In a global context, this condition occurred in Mexico. During the elections in 1994, 2000, 2006, and 2012, where the Mexican people voted for the president, the lower house, the senate, and local leaders simultaneously, public participation increased compared to the elections in 1985, 2003, and 2009, where the public only voted for the lower house and local leaders (Ugues, 2018; Solijonov, 2016). In the national context, the simultaneous conduct of elections (presidential and vice-presidential candidates, members of the House of Representatives, Regional Representatives Council, and Regional Legislative Council) have also been proven to increase public participation. The participation rate in the 2014 elections was only 69.6%, while in the simultaneous elections in 2019, it grew to 82%. The same trend is observed in the organisation of simultaneous regional elections, with a significant increase in the number of voters. Public participation in the first simultaneous regional elections in December 2015 was 68.82%; in February 2017, it was 74%; in June 2018, it was 73.24%; and in December 2020, it was 76.13% (Setiawan & Tomsa, 2022). The government hopes that public participation will further increase in the simultaneous regional elections in 2024 involving all regions in Indonesia.

Implementing simultaneous regional elections gives rise to its consequences. Simultaneous regional elections require a transitional or waiting period that results in vacancies in the positions of regional heads and deputy regional heads (Rahmazani, 2023; Schakel & Romanova, 2020). The transitional period is calculated from the expiration of the terms of regional heads and deputy regional heads until their election. This transitional period is due to the law's predetermined schedule of simultaneous regional elections. In contrast, the end of the term for regional heads varies in each region. As a result, each region undergoes a transitional period of different durations. The area with the most extended transitional period is West Papua Province, which began its transitional period on May 12,



2022. This means that if calculated until the scheduled simultaneous regional elections in 2024, West Papua will undergo a transitional period of approximately 30 months or two years and six months. Another issue is that regions undergoing the transitional period will experience vacancies in the positions of regional heads, leading the central government to appoint elected officials to fill these vacancies. Although there are procedural mechanisms for recommendations from the Regional Legislative Council and governors, the prerogative remains in the hands of the president. Many elements of society object to this, considering that someone leading the region should ideally come from the local community. However, the local community has no sovereignty in appointing interim regional heads.

Previous research on interim regional heads in Indonesia has predominantly examined the issue through the lenses of politics and bureaucracy, leaving a significant research gap in understanding the implications on civil and political rights ([Bakhri, 2023](#); [Butt, 2019](#); [Mietzner, 2020](#); [Rona Indara, 2023](#); [Siregar et al., 2023](#)). This study aims to fill this void by offering a fresh perspective on human rights. By shifting the focus towards civil and political rights, this research seeks to uncover the potential infringements and challenges individuals face in regions governed by interim heads. Through this novel approach, the study intends to contribute to a more comprehensive understanding of the complexities surrounding interim regional governance in Indonesia, shedding light on the human rights dimensions often overlooked in existing literature. The study begins by explaining the context of simultaneous regional elections in Indonesia, highlighting that they lead to vacancies in the positions of regional heads and deputy regional heads. The government appoints interim regional heads within the civil servant to address these vacancies. The research then analyses the fulfilment of civil and political rights related to the right to information and participation in governance in simultaneous regional elections, guided by the International Covenant on Civil and Political Rights and the Siracusa Principles.

2. Research Methods

This research uses normative juridical or legal doctrinal research as a research method ([Jansen, 2023](#); [NE Varuhas, 2023](#); [Negara, 2023](#); [Shukla, 2023](#); [Singh, 2023](#)). This research explained the impacts of appointing interim regional heads on human rights and democracy. The International Covenant on Civil and Political Rights, the Siracusa Principles, and Law Number 10 of 2016 Governing the Election of Governors, Regents, and Mayors are the primary sources of information. Secondary data sources are journals and scientific articles written by scholars. The acquired data is analysed using a statute approach and a conceptual approach, along with diagnostic analysis methods.

3. Discussion

3.1. Democracy and Human Rights Aspects

Each expert and institution engaged in the field of democracy utilises different criteria to assess the quality of democracy in a country. Larry Diamond and Freedom House employ variables related to realising civil liberties and political rights ([Diamond, 2015](#); [House, 2022](#)). The Economist Intelligence Unit utilises variables such as electoral process and pluralism, political culture, functioning of government, civil liberties, and political participation ([Economist, 2023](#)). To substantiate the claim of democratic regression in appointing regional leaders, this research employs parameters related to the realisation of civil and political rights, specifically those concerning the right to information and participation in governance.



When analysing the realisation of civil and political rights, the primary reference is the international agreement known as the International Covenant on Civil and Political Rights. This covenant is a follow-up to the Universal Declaration of Human Rights. As of now, Indonesia and 172 other countries have ratified this covenant (Atrey, 2023). These countries must implement the provisions outlined in the International Covenant on Civil and Political Rights as it has become *ius constitutum*. However, the covenant itself does not define civil and political rights. Referring to the Civil Rights Act of 1964, civil rights pertain to access to voting, public accommodations, and employment, as well as improving the overall status of individuals discriminated against based on race, colour, religion, sex, and national origin (Hersch & Shinall, 2015). The definition of political rights, according to the Merriam-Webster Dictionary, encompasses the rights involving participation in the establishment or administration of a government and usually entitles the adult citizen to exercise the franchise, hold public office, and engage in other political activities.

As seen in the definitions above, the scope of civil and political rights is vast. This research focuses on the fulfilment of the right to information and the right to participate in governance concerning the following articles:

Article 2 paragraph (1): Each State Party to this Covenant undertakes to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in this Covenant, without any distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.

Article 19 paragraph (2): Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, or print, in the form of art, or through any other media of their choice.

Article 2 subparagraph (a): Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 and without unreasonable restrictions, to participate in public affairs directly or through freely chosen representatives.

3.2. Limitations on Civil and Political Rights

Restrictions or limitations on human rights differ from derogations of human rights (Crosato Neumann, 2023; Fernandez, 2019). Restrictions are conducted based on public order, public health, public morals, national security, public safety, the rights and freedoms of others or the rights and reputation of others, and restrictions on general courts, while derogations are after a public emergency threatening the nation's life. (Harris & Simanjuntak, 2022). According to those factors, it can be inferred that restrictions are for extensive or permanent periods, while derogations are temporary. Moreover, derogations can be applied to derogable and non-derogable rights, but restrictions only apply to derogable rights (Harris & Simanjuntak, 2022). There are two reasons for the restrictions on human rights (Purnamasari, 2017). First is the idea that human rights are not absolute, and their fulfilment should consider individual and public matters. Second, restrictions on human rights aim to avoid conflicts due to some of the rights. For instance, excessive freedom of speech might inflict societal disputes or disagreements.

Civil and political rights are rights attached to every human being and protected by the state so that every person can participate in civil and political matters. An example of civil and political rights fulfilment in Indonesia is the general election (Arrsa et al., 2022). Furthermore, civil and political rights are categorised as negative rights. Hence, their



fulfilment can be restrained (Renteln, 2022). On the contrary, economic, social, and cultural rights are positive rights. A negative right refers to how the state’s intervention may restrain the implementation. Meanwhile, a positive right requires the state’s intervention to achieve its fulfilment.

The limitations imposed by the state must not be arbitrary (Marks, 2017). To avoid arbitrary actions, restrictions must be specific and prescribed in legal instruments (Manan, 2012). As stated in Article 28J, paragraph (2) of the 1945 Constitution of the Republic of Indonesia:

“In exercising his/her rights and freedoms, every person shall have the duty to accept the restrictions established by law for the sole purposes of guaranteeing the recognition and respect of the rights and freedoms of others and of satisfying just demands based upon considerations of morality, religious values, security and public order in a democratic society.”

The article is a legal basis for the restrictions on human rights (aspect of legality). This means that the 1945 Constitution (UUD NRI 1945) legitimatises lawmakers to establish substances on the limits of human rights (Mujaddidi, 2021). A restriction is a human consequence as homo socius or a part of society. Society runs on moral and religious values (aspect of reasoning). In other words, the fulfilment of human rights in Indonesia adopts local values and society’s existing moral and spiritual values (Halili et al., 2019). However, human rights fulfilment should not result in commotion and conflicts, and it should respect and protect everyone’s freedom and rights to manifest a democratic society (an aspect of meaning and goal).

Since restrictions on human rights are regulated in the 1945 Constitution, the topic has also become constitutional. By Decision Number 5/PUU-VII/2010, the Supreme Court established that any other regulations under the Law (*undang-undang*, hereinafter referred to as Law) that governs restrictions on human rights aside from the Law must be derived from the Law and restricted to the acknowledgement, respect, restriction, derogation, denial, or expansion of human rights. Following are the Supreme Court’s considerations regarding restrictions on human rights (Mujaddidi, 2021):

1. Respecting the rights and freedom of others.
2. Does not contain elements of discrimination.
3. Achieving legal certainty.
4. Based on robust, rational, and proportional reasons.

Table 1: Limitations or Reductions of the Fulfillment of Civil and Political Rights

Article	Type of human rights	Base of limitation	Limitation reasons
Article 12 paragraph (3)	Freedom of movement	Law	<ul style="list-style-type: none"> - National security - Public order - Health or public morals or the rights and freedoms of others
Article 19	Freedom of expression	Law	<ul style="list-style-type: none"> - For respect of the rights or reputations of others - For the protection of national security or of



			public order, or of public health or morals
Article 21	Freedom of assembly	Law	<ul style="list-style-type: none"> - National interest and security - Public political safety - Public order - Protection of public health or morals
Article 22	Freedom of association	Law	<ul style="list-style-type: none"> - Protection of the rights and freedoms of others

The International Covenant on Civil and Political Rights mentions limitations or reductions concerning the fulfilment of civil and political rights several times. This can be observed in Article 12 paragraph (3), Article 19, Article 21, and Article 22, as explained in [table 1](#). The definition of restrictions on human rights in Article 25 of the International Covenant on Civil and Political Rights differs from the articles mentioned above, as it states that “every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions”. This connotes that the rights to participate in government affairs (direct or indirect), to choose and be chosen, and to public service are attached to every citizen without discriminating race, skin colour, gender, language, religion, political stance, and others. However, certain reasonable restrictions need to be implemented.

Article 73 of Law Number 39 of 1999 elaborates that restrictions on human rights can be implemented if issued at the Law. The restriction aims to establish both rights and duties of citizens ([Remaja, 2014](#)). It also seeks to ensure the acknowledgement and respect of human rights, freedom, decency, public safety, and state affairs. Similar restrictions or limitations are expounded in *Siracusa Principles*. Siracusa principles are the fundamentals of restrictions and derogations of human rights as stated in the International Covenant on Civil and Political Rights. According to Siracusa, restrictions on human rights shall be eligible in the case of the following:

- a. *Prescribed by law*: Restriction by law is absolute. However, the restriction shall not be arbitrarily implemented, and the detailed terms shall be clear and accessible to everyone. At the same time, the law must protect and recover human rights.
- b. *In a democratic society*, Restrictions on human rights shall not violate the principles of democracy.
- c. *Public order*: Human rights fulfilment shall align with public order. The parliament, the court, and other competent, independent institutes should control the state’s border agents.
- d. *Public health*: Any threat to individual or public health allows restrictions on human rights. This aims to prevent diseases and the spread or attain care for the sick or hurt by WHO’s regulations.
- e. *Public morals*: Since morality is fundamental in a state, the government can use it to restrict human rights.
- f. *National security*: These restrictions protect the nation, its territorial integrity, and political independence against violence or threats. Restrictions



are vehemently discouraged if the threats are local-level ones that endanger isolated order or repress the opposition.

- g. *Public safety* Any threat to an individual's safety, life, or physical integrity and severe damage to an individual's property accede to the restrictions on human rights.
- h. *Rights and freedoms of others or the rights or reputations of others:* Restriction is not an excuse to defend the state or public officials from opinions and criticism.
- i. *Restrictions on public trial:* This restriction aims to avoid publicity that is detrimental to the fairness of the trial, public morals, public order, or national security.

Apart from the nine reasons above, restrictions on human rights can also be carried out in conditions of public emergency. A *public emergency* is defined as an extraordinary, actual, or immediately dangerous situation that threatens the lives of the entire population and all or part of the territory of a country, which can endanger public order, public health, and national security and violate general morality. It should be noted that restrictions should not be imposed on opinions and criticism of the state or public officials (Adhari et al., 2021). The regulation of restrictions on the fulfilment of human rights above can serve as a basis for assessment in appointing interim regional leaders. Upon careful observation, no reasons can be used to restrict the fulfilment of civil and political rights in establishing interim regional leaders. The explanation is outlined in the [table 2](#).

Table 2: Explanation of Illegitimate Restrictions

The Indicators of Limitation Civil and Political Rights	Can it be used as a basis?	Explanation
Prescribed by law	Can not	Constitutional Court Decisions Number 67/PUU-XIX/2021 and Number 15/PUU-XX/2022 recommend the government formulate implementing regulations so that the appointment of acting regional heads is carried out based on the principles of democracy and provides guarantees for the community.
In a democratic society	Can not	Restrictions on civil and political rights in appointing acting regional heads violate the principles of democracy, especially the right to access information and participate in governance.
Public order	Can not	Public order could be disrupted if the government does not listen to the people's aspirations.
Public health	Can not	Irrelevant
Public morals	Can not	The morality of the Indonesian nation, which is based on Pancasila, actually required democratic, wise, and reasonable elections in every process of selecting leaders (the fourth principle of Pancasila).
National security	Can not	There is no violence or threat of violence when the people are given the right to appoint acting regional



Public safety	Can not	heads. Restrictions in this context demonstrate government authoritarianism towards its citizens.
Rights and freedoms of others or the rights or reputations of others	Can not	Irrelevant
Restrictions on public trial	Can not	Opinions are needed when appointing interim regional heads because local people know their area better.
Public Emergency	Can not	Irrelevant

However, in the Constitutional Court's decision Number 95/PUU-XX/2022, the material review of Law 10/2016, which regulates simultaneous regional elections and the consequences of acting as regional heads, the Constitutional Court rejected the claim. The primary basis for this rejection is that the policy of working regional heads and cutting the terms of office of regional heads is a transition policy to support simultaneous elections in 2024. The narrative of this transition policy is generally exceptional and only occurs at that time to support national strategic interests. Even though it is transitional, other Constitutional Court decisions, namely Number 67/PUU-XIX/2021 and Number 15/PUU-XX/2022, advise the government to draft implementing regulations so that the appointment of acting regional heads is carried out with democratic principles and provides guarantees to the community. The government issues Internal Regulations (*Permendagri*) rather than Government Regulations, which are hierarchically stronger and higher. It ignores the mandate of Article 86 Section (6) of Law Number 23 of 2014 that interim regional heads need to be regulated in Government Regulations. This neglect has certainly caused polemics in the management of this transition policy.

3.3. On the Face of Simultaneous Regional Elections

The inauguration of the interim regional heads has been administered since 2015 according to Article 201 Section (10) and (11) of Law Number 10 of 2016 on the election of Governors, Regents, and Mayors. The sections state that an interim governor official is elected from the national rank (*madya*), while the acting regent/mayor official is selected from the regional rank (*pratama*). Interim regional heads' governing period runs until the definitive regional head is democratically elected in the Regional Election. This appears to be the limited scope of Law Number 10 of 2016.

The law above excludes the mechanism and requirements for selecting interim regional heads, as the title does not focus on the regulations on the acting regional heads either. Yet, there is no other law regarding this issue. Regulations on interim regional heads can be found in Government Regulation 6 of 2005 on the Selection, Authorisation, Inauguration, and Dismissal of Regional Heads and their Vices. However, selecting the interim regional heads back then wholly differs from the current situation. In Government Regulation Number 6 of 2005, the acting regional heads were intended to fill the vacuum of power when both the regional head and vice were concurrently dismissed in the vicinity of simultaneous regional elections.

The fundamental of interim regional heads lies in the 'no vacuum of power' principle. Hence, there were 271 interim regional heads instated in 2022 and 2023. They consisted of 24 governors, 191 regents, and 56 mayors to fill the vacancy of regional heads ([Djohan, 2022](#)).



This implies that more than half of the regions in Indonesia are governed by appointed leaders whom the people do not elect. Azyumadi Arya, one of the reputable professors in Politics in Indonesia, claimed this was the uprising of the regime’s sovereignty instead of the death of people’s sovereignty regarding regional autonomy (Manik, 2022).

An interim regional head’s governing period lasts for a while. For example, an acting governor would govern the Bangka Belitung Regency for two years, six months, and 15 days for the tenure of the Regent, and the Vice already ended on 12 May 2022. Still, the regional election will be held on 27 November 2024. The interim period runs almost half of the elected regent and vice’s period. According to Government Regulation Number 6 of 2005 on Selection, Authorization, Inauguration, and Dismissal of Regional Heads and the Vices, appointing the elected regional head is one of the president’s prerogatives. However, the Minister of Home Affairs has stated that the Regional Legislative Council and governor are eligible to list names of interim regional head candidates. For that reason, it has become uncommon to see Army/Police (*TNI-Polri*) retirees and ministry or presidential palace officers appointed as interim regional heads.

Table 3: Affiliations of the Interim Regional Heads

Name	Origin Institution	Current Position
Heru Budi Hartono	Chief of the Secretariat of the President of the Republic of Indonesia	Interim Regional Heads of the Special Capital Region of Jakarta
Bey Machmudi	Deputy for Protocol, Press, and Media Affairs, Presidential Secretariat	Interim Regional Heads of West Java
Bahtiar Baharuddin	Director General of Politics and General Administration	Interim Regional Heads of South Sulawesi
Nana Sudjana	Chief Inspector of the General Secretariat of The House of Representatives	Interim Regional Heads of Central Java
Hassanudin	Deputy Inspector General of the Indonesian Army	Interim Regional Heads of North Sumatra
Sang Made Mahendra J	Special Staff to the Minister of Home Affairs for Security and Legal Affairs	Interim Regional Heads of Bali
Ayodhia Kalake	Secretary of the Coordinating Ministry for Maritime Affairs and Investment	Interim Regional Heads of East Nusa Tenggara
Andap Budhi Revianto	Secretary General of the Ministry of Law and Human Rights	Interim Regional Heads of Sulawesi Tenggara



From the administrative perspective, the decision lays no issues. However, it will inflict fundamental conflicts in regional autonomy, people's sovereignty, and democracy. Interim regional heads appointed by the central government surely possess different comprehension concerning the region's situations and problems. Moreover, most people want a local as their interim regional head. For instance, people in Papua, Aceh, and Sulawesi Selatan have actively remonstrated against their respective non-local leaders. Aside from appearing as non-representative, the appointment of the interim heads is also not transparent and less democratic. This may result in doubts concerning the transparency and accountability of the system.

3.4. Fulfilment of Rights of Access to Information

The main characteristics of a democratic country are freedom of information and access to information. Information transparency is fundamental to creating good governance and transparent, open, and participative government ([Asshiddiqie, 2003](#)). Unrestricted access to information allows people to participate directly or indirectly in every governing process, including planning, decision-making, implementation, and evaluation ([Kuznicka-Błaszowski, 2023](#); [Suherlan, 2023](#)).

At present, the freedom of information is acknowledged by the constitution and legal regulations, even classified as one of the types of human rights that must be protected and fulfilled by the government. Article 28F of the 1945 Constitution of the Republic of Indonesia affirms that *“Every person shall have the right to communicate and to obtain information for the development of his/herself and social environment, and shall have the right to seek, obtain, possess, store, process and convey information by employing all available types of channels.”*. There is also article 14 paragraph 2 of Law Number 39 of 1999, which states *“Every person has the right to seek, obtain, possess, store, process, and convey information using all available means.”* Then, Article 19 paragraph (2) of the International Covenant on Civil and Political Rights mentioned that *“Every person has the right to freedom of expression; this right shall include freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, or print, in the form of art, or through any other media of his choice.”*

Law Number 14 of 2008 on Public Information Transparency provides access to obtain public information. Public information includes information produced, stored, managed, sent and received by a public body about governments and governance. Public Body refers to executive, legislative, judicial, and other institutions with regard to governance. Information transparency prevents despotism by officials or enclosed and obscure bureaucracies that exclude people. It is also a manifestation of the *checks and balances* principle as an effort to prevent corruption in the system when unsupervised (*power tends to corrupt; absolute power corrupts absolutely*). In general, the objectives of public information transparency are as follows:

- a. To identify and assess public policy issued by the government.
- b. To prevent corruption and disclose law violations in planning, decision-making, and policy implementation.
- c. To establish trust in the government if the policy benefits people.
- d. To showcase the government's capability in policymaking and offer people rational consideration for the next election.

As stated above, the government can restrict one's access to information for rational and legal reasons. However, the restriction also opens a gap for the government to obscure policies with lousy track records. For instance, a policy during the New Order impelled



businessmen to cooperate with the government for the sake of their business and wealth (Purdey et al., 2023). During the New Order, there was also a policy that protected government officials from being executed and shamed for corruption cases (Purdey et al., 2023). Similar cases caused by obscure access to information are still prevalent today. Another example was the internet ban in 2020 in Papua and West Papua during antiracism protests in several regions, such as Manokwari and Sorong. The Jakarta State Administrative Court ruled the government unlawful after a lawsuit from the Freedom of Expression and Journalism groups.

This is also inevitable in the case of appointed interim regional heads. DPRD, the governor, or the Ministry of Home Affairs team might recommend questionable candidates. As found by Malang Corruption Watch (MCW) in 2022, there were three candidates with criminal records recommended by the DPRD of Batu (Supriyatno, 2022). Wahyu Hidayat was suspected of facilitating political party programs and having a clash with the Regent and the Vice Regent of Malang Regency. Zadim Effisiensi's name was mentioned 30 times in Decision Number 27/Pid.Sus/2018/PN.Sby regarding the gratification case of Eddy Rumpoko in 2021. This implies that Zadim was Eddy Rumpoko's right-hand man. Then, Hudiyono was highly reported as a suspect of corruption, collusion, and nepotism in the recruitment process of Non-Permanent Employees in his respective office, as investigated by the East Java Inspectorate.

The selection process of the interim regional heads needs to be more transparent. Law Number 10 of 2016 on the election of Governors, Regents, and Mayors and Government Regulation Number 6 of 2005 on Selection, Authorization, Inauguration, and Dismissal of Regional Heads and the Vices do not cover public involvement in the process. However, public testing is vital in appointing the interim regional head. People can learn each candidate's background, ideology, and worldview on the issues. As the supervising public service institution, the Ombudsman found three maladministrations in appointing an interim regional head (Medistiara, 2022). One of them was access to information. Ministry of Home Affairs appeared to prolong and delay responses to complaints and information inquiries in 2022. Pro-democracy institutions such as KontraS, ICW, and Perludem have requested open access to interim regional head appointment documents but have yet to receive a response.

Information transparency related to the interim regional head appointment process is also a part of human rights. According to the previously mentioned reasons for restrictions on human rights, the obscure process of interim regional head appointment is invalid and unjustified. Transparent information is necessary to establish and ensure national matters and public politics. Referring to the definition of public information in Law Number 14 of 2008 on Public Information Transparency, every step in the interim regional head appointment process is categorised as general information since the final decision gambles on people's welfare. People are entitled to know every step of the interim regional head appointment and its reasoning.

3.5. Fulfillment of Rights to Participate in Governance

The right to participate in governance is a political right. This statement is based on the definition of political rights as written in the Merriam-Webster Dictionary, which is defined as the rights that involve participation in the establishment or administration of a government and are usually held to entitle the adult citizen to exercise of the franchise, the holding of public office, and other political activities compare civil rights. According to



another definition, the political right is the ability to pursue, secure, and protect any wealth, power, or position that is advantageous to oneself (Bawamenewi, 2019).

Another definition of governance is all activities related to the organisation of the state carried out by state organs or institutions with authority, competence, and power to achieve the state's goals (Asshiddiqie, 2015). Governance can also be understood as a state-owned organisation that functions to exercise control. According to C. F. Strong, governance is an organisation with the authority to maintain the peace and security of the state (Syafie, 2011). From these two definitions, it can be concluded that the purpose of establishing governance is to maintain order so that the state's goals can be achieved.

The government during the New Order era was corrupt, with numerous cases of collusion and nepotism (Mariana, 2006). Instead of maximising public services, the government then used as a political game under the pretext of creating economic stability, which negatively impacted government neutrality (Yudiatmaja, 2015). During that period, the right of every citizen to participate in governance was yet to be realised. Only citizens affiliated with certain groups were allowed to participate. Entering the reform era, the governance system in Indonesia moved towards greater democracy. Learning from the past, legal reform became integral to building a democratic governance system (MD, 2009). The first step was to amend the constitution. The substance of the 1945 Constitution after the amendment recognises citizens' human rights and constitutional rights that must be fulfilled by the state, one of which is the right to participate in governance as stated in Article 28D paragraph (3). Article 28I paragraph (5) states that to uphold and protect human rights, the implementation of human rights must be guaranteed, regulated, and incorporated into legislation. Therefore, the government and the House of Representatives drafted various regulations, including ratifying covenants related to human rights, such as the International Covenant on Civil and Political Rights.

A democratic government involves the public in every aspect of its governance processes. This is very important because it provides information to the government about issues and the needs of the people, increases the willingness of the public (legitimacy) to accept decisions made by the government, ensures legal protection and certainty, and facilitates the deliberative process of decision-making (SY & Irawan, 2022). The mechanism for appointing interim regional leaders differs from that for electing regional and deputy regional heads. Regional heads and deputy regional heads are elected directly by the people through a general election mechanism. In contrast, the appointment of interim regional leaders does not involve public participation. Only the Regional Legislative Council and the governor can propose candidates for interim regional leaders. Moreover, this is based on something other than the public's wishes because candidates are determined in a closed or non-public consultation mechanism. This certainly undermines the spirit of the constitution to realise local democracy that can increase public participation and civic traditions at the local level (Putnam, 1993).

Even in the selection process, citizens don't have the opportunity to participate. The Final Assessor Team carries out the selection mechanism entirely and consists of several ministries and state institutions. Then, based on the assessment results, the president can determine the selected interim regional leaders through a presidential decree. Unsurprisingly, the Governor of Southeast Sulawesi once refused to appoint an interim regional leader because the chosen one was not his proposal. Ultimately, the community experiences all the consequences of choices not determined by themselves. Regulated in Article 132, paragraphs (5) and (6) of Government Regulation Number 6 of 2005, an interim regional head must compile accountability reports at least every three months. These accountability reports serve



as evaluation materials by the Minister of Home Affairs. However, the government regulation does not specify the assessment indicators and the implications if the interim regional heads are deemed to have failed to lead the region. Additionally, there is no mechanism for soliciting public opinions. Nevertheless, general testimonials are crucial because the public's perspective is rooted in their interests (free from political intrigue), the community is directly impacted by the policies issued by the acting regional heads, and community involvement in the evaluation process, a requirement for a democratic government.

The reasons for restricting human rights outlined above are incompatible with this context. On the contrary, the failure to fulfil the right to participate in governance violates the principles of democracy, which is contrary to the Siracusa Principles. Although the president has the prerogative right to determine the appointed interim regional heads and the Regional Legislative Council and governors have the right to propose candidates for interim regional heads, the public has the right to participate in every stage, whether directly or indirectly. The fulfilment of the right to participate in governance becomes crucial amidst civil servants' rampant neutrality viola. In the simultaneous regional elections of 2015, there were 29 complaints about ASN neutrality, 55 complaints in 2016, 52 in 2017, 491 in 2018, and as of August 19, 2020, the National Civil Service Agency recorded 490 complaints regarding ASN neutrality (Sulistyo et al., 2021). According to the Study and Development Division of the National Civil Service Agency report, the most dominant factor causing ASN not to be neutral is the motive to obtain or maintain positions, material benefits, or projects. Interim regional heads have political authority. Political authority refers to the power related to the people's will (Sheehan, 2001). For example, in determining the local government budget, the local government must obtain approval from the Regional Legislative Council, indicating a tug-of-war of interests. Therefore, public participation is essential to prevent conflicts of interest.

4. Conclusion

The policy of transitioning to simultaneous elections in 2024 has sparked controversy from the perspectives of human rights and democracy. There is no justification for the government to overlook citizens' civil and political rights in appointing interim regional heads. However, in reality, appointing interim regional heads is fundamentally problematic. The government's reluctance to disclose information and intentional efforts to limit public participation raise significant concerns, all under the pretext of the necessity of transition policies to ensure the success of the simultaneous elections in 2024. Transparency is intended to prevent arbitrary practices by authorities or actions taken behind closed doors without involving public participation. Information transparency also serves as a manifestation of the principles of checks and balances. Moreover, it seems that the government itself is not implementing the mandate of the Constitutional Court Decision to create government regulations as technical rules regarding the appointment of interim regional heads. This reluctance indicates that the centralised appointment of interim regional leaders is more politically driven than merely focused on effectiveness and efficiency.

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Human Rights in the Global South

(HRGS)

Vol. 2, No. 2, December 2023, 76-92

ISSN: 2962-5556

DOI: <https://doi.org/10.56784/hrgs.v2i2.81>



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