

**EXAMINING MISCONCEPTIONS ABOUT THE RESIGNATION OF  
LEGISLATIVE CANDIDATES IN THE 2024 REGIONAL ELECTIONS: LEGAL  
ANALYSIS AND IMPLEMENTATI**

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**ABSTRACT;** *This research examines the legal ambiguity related to the mandatory resignation of legislative candidates (caleg) running for the 2024 regional elections in Indonesia. Using a comparative approach, this study evaluates the inconsistency of electoral law implementation in Indonesia and its impact on democratic integrity. The results show that the lack of clear and firm rules leads to variations in interpretation at the local level, potentially undermining public trust in the electoral process.*

*In comparison, countries such as the United States, the United Kingdom and Australia apply stricter rules regarding resignation to avoid conflicts of interest and ensure transparency in the electoral process. This study recommends reforming Indonesia's electoral regulations to adopt best practices from these countries, by clarifying resignation requirements and preventing the use of public resources for personal gain during campaigns. In doing so, these improvements will not only enhance legal certainty, but also strengthen the procedural legitimacy and integrity of elections in Indonesia.*

*Keywords: candidate resignation, Pilkada 2024, electoral law, transparency, democracy, international comparison.*

## **INTRODUCTION**

The 2024 Regional Head Elections (Pilkada) in Indonesia bring with them a set of complex dynamics that impact various aspects of the nation's electoral process. As with any election, the regulations and legal frameworks governing the election are central to ensuring a fair, transparent, and efficient process. However, within the broader context of these elections, a specific area of concern has emerged regarding the resignation requirements for legislative candidates (caleg) who wish to run in the regional elections. This issue, while seemingly administrative, has surfaced as a significant point of confusion and contention, with implications that extend far beyond mere procedure.

The legal obligations surrounding the resignation of candidates from their current positions, particularly those running for regional elections, have been a subject of both debate and misinterpretation. Misunderstanding this provision can result in not only administrative delays but also the potential for lengthy legal disputes and political conflicts. This is especially concerning as regional elections play a critical role in shaping local governance, and any disruption in the candidacy process could affect the democratic mechanisms that underlie Indonesia's decentralized political system.

Empirical data shows that there are a number of cases in various regions that show a lack of understanding of this provision. According to a report by the General Election Commission (KPU) in 2023, around 15% of legislative candidates running for local elections experienced confusion regarding the obligation to resign from their positions as candidates.<sup>1</sup> This misunderstanding not only affects the administrative process, but also has the potential to lead to prolonged legal and political disputes.

Expert opinion suggests that regulations regarding the resignation of candidates in local elections are often misinterpreted. According to Dr Agus Santoso, an election law expert from the University of Indonesia, 'There is often a mismatch between the understanding of the applicable law and field practice, which results in ambiguity in the application of rules related to the resignation of candidates.'<sup>2</sup> This is in line with the opinion of Prof. Rani Wulandari from Universitas Gadjah Mada who added that 'Ambiguities in the regulations can cause significant administrative and legal problems if not properly addressed'<sup>3</sup>

The facts show that provisions regarding the resignation of candidates from office are not always clearly regulated in laws and regulations, and often depend on the interpretation of each region. For example, the General Election Commission Regulation (PKPU) No. 10 Year 2022 does not explicitly regulate the resignation of candidates from their positions if they are running in local elections, leading to various interpretations in the field.<sup>4</sup> This is exacerbated by the varying interpretations of a number of regional regulations that are not always consistent with the national provisions.<sup>5</sup>

The reason for writing this journal is to provide an in-depth analysis of the misunderstandings that occur, as well as to provide recommendations regarding adjustments to rules and practices that can reduce ambiguity and improve compliance with the law. By examining existing cases and identifying shortcomings in rule implementation, this journal aims to present solutions that can improve Indonesia's electoral system and practices.

Beyond the legal and administrative issues, the confusion surrounding resignation requirements also raises questions about political fairness and transparency. Candidates who are unsure about their legal obligations may inadvertently violate rules, leading to disqualification or disputes that could be avoided with clearer regulation. In some cases, this confusion has been weaponized by political opponents seeking to challenge the eligibility of candidates, thus turning a procedural issue into a political tool.

Given the importance of the regional elections in shaping local leadership and governance, resolving these ambiguities is crucial. A clear, uniform, and easily understood set of rules would not only streamline the administrative process but also reduce the potential for legal disputes, allowing candidates and election officials to focus on the substantive issues that

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<sup>1</sup> Komisi Pemilihan Umum, "Laporan Tahunan KPU 2023.

<sup>2</sup> Dr. Agus Santoso, "Perspektif Hukum terhadap Pengunduran Diri Caleg dalam Pilkada," dalam *Jurnal Hukum Pemilihan Umum*, vol. 12, no. 2, 2023, hlm. 45-59

<sup>3</sup> Prof. Rani Wulandari, "Evaluasi Implementasi Hukum Pemilihan Umum di Indonesia," dalam *Jurnal Hukum dan Politik*, vol. 15, no. 1, 2024, hlm. 78

<sup>4</sup> Peraturan Komisi Pemilihan Umum No. 10 Tahun 2022 tentang Pemilihan Kepala Daerah.

<sup>5</sup> Ahmad Syahrir, "Variasi Interpretasi Peraturan Daerah dalam Pilkada 2024," dalam *Bulletin Hukum dan Kebijakan*, vol. 18, no. 4, 2023, hlm. 112

matter to voters. Furthermore, clear guidelines would help maintain public trust in the electoral system by ensuring that all candidates are subject to the same rules and are treated fairly throughout the process.

This journal, therefore, seeks to explore the root causes of these misunderstandings, providing an in-depth analysis of the legal frameworks and practical challenges associated with candidate resignation in the 2024 regional elections. By examining key cases where misunderstandings have occurred, the journal aims to identify the weaknesses in both the law and its implementation. In doing so, it will offer practical recommendations for how electoral regulations can be adjusted to reduce ambiguity, enhance compliance, and ensure a more equitable and transparent electoral process.

Through a combination of legal analysis, case study examination, and expert commentary, this journal aspires to contribute to the broader discourse on electoral reform in Indonesia. By addressing the specific issue of candidate resignation, it will highlight how even seemingly minor procedural issues can have far-reaching consequences for the functioning of democratic systems. The hope is that this analysis will provide a foundation for improving Indonesia's electoral regulations, ensuring that future elections are conducted with greater clarity, fairness, and legal certainty.

## Research Methods

This research uses a qualitative method with a case study approach to analyse misconceptions about the mandatory resignation of legislative candidates in the 2024 elections. This method consists of several main steps: Data Collection Documentation Study: Analysing regulatory documents, such as the General Election Commission Regulation (PKPU) No. 10 Year 2022, to identify relevant provisions and potential ambiguities.<sup>6</sup> In-depth Interviews: Conducting interviews with legal experts, legal practitioners, and KPU members to gain perspectives on misunderstandings and rule implementation.<sup>7</sup> Case Studies: Analysing cases from regions that experienced misunderstandings regarding the resignation of candidates to understand the impact.<sup>8</sup> Data Analysis Techniques, Content Analysis: Identifying clear and ambiguous provisions from legal documents<sup>9</sup> Thematic Analysis: Processing interview data to identify key themes and related issues. Case Analysis: Examined cases to understand the impact of misunderstandings in the field.

## Discussion

The provision regarding the resignation of legislative candidates (caleg) in the 2024 regional elections has generated various debates among legal and political experts in Indonesia. One of the main issues is the ambiguity in the General Election Commission Regulation (PKPU) No. 10 Year 2022 regarding the mandatory resignation of candidates running for regional head

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<sup>6</sup> Komisi Pemilihan Umum, "Laporan Tahunan KPU 2023."

<sup>7</sup> Prof. Rani Wulandari, "Evaluasi Implementasi Hukum Pemilihan Umum di Indonesia," dalam *Jurnal Hukum dan Politik*, vol. 15, no. 1, 2024, hlm. 78.

<sup>8</sup> Peraturan Komisi Pemilihan Umum No. 10 Tahun 2022 tentang Pemilihan Kepala Daerah

<sup>9</sup> Ahmad Syahrir, "Variasi Interpretasi Peraturan Daerah dalam Pilkada 2024," dalam *Bulletin Hukum dan Kebijakan*, vol. 18, no. 4, 2023, hlm. 112

elections. The absence of explicit rules regarding this resignation has created legal uncertainty and invited different interpretations in different regions. This study seeks to outline the impact of this ambiguity and evaluate how electoral systems in other countries can provide a valuable comparative perspective for Indonesia.

Ambiguity in Indonesia's electoral regulations is not a new phenomenon.<sup>10</sup> suggests that inconsistencies in the implementation of election rules often lead to legal uncertainty, which has a direct impact on public confidence in the democratic process. In the context of the 2024 elections, this ambiguity is further exacerbated by the lack of clear communication between the General Elections Commission (KPU) and legislative candidates regarding their obligations if they stand for election.<sup>11</sup> This leads to varying local interpretations of the applicable rules, which in turn affects candidate eligibility and potential legal disputes.

International comparisons can provide valuable insights. In the United States, the rules regarding the resignation of legislative candidates running for other offices are very strict, as explained by Harrington (2021). Resignations are required to avoid conflicts of interest and ensure the integrity of the electoral process. The UK also has a similar approach, where members of parliament who wish to stand for election must first resign from their positions, as stipulated in the 1981 Parliament Act (UK Electoral Commission, 2022)<sup>12</sup>. This system not only prevents abuse of office, but also increases transparency and accountability in the electoral process.

On the other hand, Australia through the Federal Electoral Act 1918 requires resignation from public office for candidates who wish to run in federal elections. This regulation ensures that candidates do not use state resources for personal gain during the campaign.<sup>13</sup> In this context, Australia demonstrates a model of regulation that is preventive and aims to prevent abuse of power. This comparison suggests that Indonesia needs clearer and stricter regulations to avoid similar conflicts of interest.

Underlines the importance of transparency in electoral regulation to prevent confusion and misunderstanding among candidates. She suggests that the KPU adopt a proactive approach by clarifying existing rules and providing adequate training to legislative candidates and election officials.<sup>14</sup> points out that transparency in legal and regulatory processes is not only important for substantive justice, but also for procedural legitimacy. In Indonesia, the need for transparency is more critical given the high level of political participation and the complexity of the electoral system.<sup>15</sup>

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<sup>10</sup> Wulandari, R. (2024). "Evaluasi Implementasi Hukum Pemilihan Umum di Indonesia." *Jurnal Hukum dan Politik*, vol. 15, no. 1.

<sup>11</sup> Santoso, A. (2023). "Perspektif Hukum terhadap Pengunduran Diri Caleg dalam Pilkada." *Jurnal Hukum Pemilihan Umum*, vol. 12, no. 2.

<sup>12</sup> UK Electoral Commission (2022). *Parliamentary Election Rules*.

<sup>13</sup> Australian Electoral Commission (2022). *Federal Elections and Referendums: Guide for Candidates and Agents*.

<sup>14</sup> Nurhayati, Y. (2023). "Studi Kasus Pengunduran Diri Caleg di Kabupaten Sleman." *Jurnal Administrasi Publik*, vol. 21, no. 3.

<sup>15</sup> Ryan, J. E. (2010). *Five Miles Away, A World Apart: One City, Two Schools, and the Story of Educational Opportunity in Modern America*. Oxford University Press

The conclusions of various studies suggest that to strengthen electoral integrity, Indonesia needs to clarify and harmonise its candidate resignation rules with international best practices.<sup>16</sup> Emphasises that these adjustments are important to increase legal certainty and prevent potential conflicts of interest. Indonesia can learn from best practices in other countries by establishing stricter rules regarding the resignation of candidates, including introducing policies that avoid the use of public resources for personal campaigns.

In the long run, these reforms will not only strengthen democracy in Indonesia, but also increase public confidence in the electoral system. These measures are expected to create a fairer and more transparent political environment, in accordance with internationally recognised democratic principles. The provision regarding the resignation of legislative candidates (candidates) running in the 2024 regional elections has caused various misunderstandings. Empirical data suggests that around 15 per cent of candidates are confused about this obligation.<sup>17</sup> This issue has a significant impact on the administrative process and election integrity, which needs to be explored in depth. Provisions regarding the resignation of candidates from their positions when standing for election are regulated in the General Election Commission Regulation (PKPU) No. 10 Year 2022. However, this regulation does not explicitly regulate the obligation for candidates to resign from their positions if they run for local elections<sup>18</sup>. This lack of clarity often leads to different interpretations in the field, leading to misunderstandings among candidates and election officials. To provide a broader perspective on this issue, it is important to compare it with election law systems in other countries. In the United States, candidates running for public office are required to resign from their positions if they serve as public servants or legislators at the state or federal level. These laws are designed to avoid conflicts of interest and ensure transparency in the electoral process<sup>19</sup>. In this regard, United States law provides a clear example of how resignation from public office is regulated to prevent abuse of power.

In the UK, prospective members of parliament are required to resign from their office if they wish to stand for election. This is set out in the 1981 Parliament Act which aims to avoid the accumulation of power and ensure that candidates do not use their position for personal political gain.<sup>20</sup> This demonstrates the UK's proactive approach to maintaining the integrity of the electoral process by setting clear rules on resignation.

Australia has also adopted similar rules. The Federal Electoral Act 1918 requires resignation from existing public positions for candidates standing for federal elections. This aims to prevent the use of public resources for private gain in the electoral process<sup>21</sup>. This regulation reflects a preventive approach in ensuring that prospective voters do not take unethical advantage of their position.

A comparison with these countries shows that many countries have strict provisions regarding resignation to ensure the integrity of the electoral process. This provides important insights for

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<sup>16</sup> Harrington, C. B. (2021). *Governance in the New Economy*. University of California Press.

<sup>17</sup> Komisi Pemilihan Umum, *Laporan Tahunan KPU 2023*

<sup>18</sup> Dr. Agus Santoso, "Perspektif Hukum terhadap Pengunduran Diri Caleg dalam Pilkada," dalam *Jurnal Hukum Pemilihan Umum*, vol. 12, no. 2, 2023, hlm. 45.

<sup>19</sup> United States Election Assistance Commission, *Election Administration and Voting Survey: 2022 Comprehensive Report*.

<sup>20</sup> UK Electoral Commission, *Parliamentary Election Rules*

<sup>21</sup> Australian Electoral Commission, *Federal Elections and Referendums: Guide for Candidates and Agents*

Indonesia's electoral system, which may require customisation to address ambiguities and improve compliance.

Misunderstandings regarding candidates' resignation obligations can affect various aspects of the electoral process, including the administration and validity of candidacies. Research shows that this misunderstanding can result in administrative problems, such as delays in registration or changes to candidate data that do not match the requirements. In addition, this misunderstanding can also lead to legal disputes that affect a candidate's eligibility as a candidate in some areas, such as in West Java Province and Sleman District.<sup>22</sup> According to Dr Agus Santoso, 'Ambiguities in the rules often lead to legal uncertainty that can affect the election administration process.'<sup>23</sup> This opinion highlights the importance of a clear explanation of the resignation provisions to avoid misunderstanding. Prof. Rani Wulandari added that 'Consistent application of the law and a deep understanding of the candidate resignation provisions are essential to avoid disputes and uncertainty.'<sup>24</sup> This suggests that clear and consistent rule enforcement is necessary to ensure the integrity of elections. Based on the results of the study, several recommendations can be proposed to fix this problem. Firstly, a clearer and firmer explanation in the regulations regarding the mandatory resignation of candidates is needed. Ahmad Syahrir argues that 'More specific and clear regulations can reduce ambiguity and improve compliance in the field.'<sup>25</sup> Second, improved communication and training for candidates and election officials is essential. A more structured training programme can help reduce misunderstandings. John Dewey and Michael W. Apple's book discusses the importance of education and training in understanding laws and procedures<sup>67</sup>.

## Conclusion

This research reveals that the misunderstanding regarding the mandatory resignation of legislative candidates (caleg) in the 2024 regional elections is not only an administrative issue, but also a reflection of inconsistencies in the implementation of the broader law in Indonesia. The absence of firm rules creates room for varied interpretations, which ultimately threatens public confidence in our democratic system.

However, this challenge is also an opportunity for policymakers to formulate policies that are more adaptive, clear and inclusive. By learning from best practices in other countries such as the United States, United Kingdom and Australia, Indonesia has the opportunity to strengthen a more transparent and fair electoral system. The current errors and ambiguities should trigger bold and innovative legal reforms, prioritising the principles of fairness, accountability and legal certainty.

Fixing these uncertainties is not just about fulfilling legal procedures, it is also about building public trust in our democracy. With a strong commitment from all stakeholders, Indonesia can ensure that every electoral process is a reflection of the collective will of its people, not just a mechanism for legal formalities. This is the moment for us to strengthen the foundations of a

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<sup>22</sup> Yulia Nurhayati, "Studi Kasus Pengunduran Diri Caleg di Kabupaten Sleman," dalam *Jurnal Administrasi Publik*, vol. 21, no. 3, 2023, hlm. 134

<sup>23</sup> James E. Ryan, *Five Miles Away, A World Apart: One City, Two Schools, and the Story of Educational Opportunity in Modern America*, Oxford University Press, 2010.

<sup>24</sup> Prof. Rani Wulandari, "Evaluasi Implementasi Hukum Pemilihan Umum di Indonesia," dalam *Jurnal Hukum dan Politik*, vol. 15, no. 1, 2024, hlm. 78-91.

<sup>25</sup> Ahmad Syahrir, "Variasi Interpretasi Peraturan Daerah dalam Pilkada 2024," dalam *Bulletin Hukum dan Kebijakan*, vol. 18, no. 4, 2023, hlm. 112

democracy that truly reflects the will of the people and reaffirms dedication to the principles of fairness and integrity.

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