

## IDENTITY POLITICS IN THE SYSTEM OF REGIONAL HEAD ELECTIONS IN A DEMOCRATIC RULE OF LAW STATE

Achdjam Syahfan Umasugi<sup>1</sup>, Marthinus J Saptanno<sup>2</sup>, Jantje Tjiptabudy<sup>3</sup>,  
Saartje S Alfons<sup>4</sup>

<sup>1,2,3,4</sup>Doctoral Program in Law, Pattimura University, Ambon

ifanumasugi09.@gmail.com<sup>1</sup>

### ABSTRACT

**Background:** Regional head elections as local political processes to determine leaders for the next five-year period face serious challenges from the emergence of identity politics that can threaten democratic principles and the rule of law. This phenomenon requires in-depth study to identify gaps and issues that may hinder the creation of democratic regional elections within Indonesia's rule of law framework.

**Objective:** This research aims to identify forms of identity politics in regional head elections, explain the implementation of democratic regional elections, and analyze identity politics in regional elections based on the concept of the rule of law state.

**Methods:** This study employs a normative legal research method with statutory, comparative, and conceptual approaches to analyze primary legal materials including legislation and court decisions related to identity politics in regional elections.

**Results:** The research demonstrates that identity politics in regional head election systems continues to occur extensively despite being regulated under article 69(b) of Law Number 1 of 2015, with law enforcement remaining weak and ineffective in preventing the use of SARA (Ethnicity, Religion, Race, and Inter-group) issues as campaign tools. The implementation of campaign supervision regulations through KPU Regulations and Bawaslu Regulations has not been optimal in minimizing the negative impacts of identity politics that can threaten democratic stability and national unity.

**Conclusion:** This research concludes that identity politics has a significant impact on the dynamics of regional head elections in Indonesia, where despite existing regulations prohibiting such practices under article 69(b) of Law Number 1 of 2015, implementation remains weak and identity politics practices continue to occur. To create democratic and inclusive regional elections, a balance is required between firm law enforcement and continuous political education for all stakeholders.

**Keywords:** identity politics, general elections, regional head, democratic governance, rule of law

### Introduction

#### 1.1 Background and Problem Statement

The implementation of direct regional head elections represents a fundamental transformation in Indonesia's democratic governance, serving as a tangible manifestation of democratic principles at the local level. Since the enactment of Law No. 32 of 2004 on Regional Government, regional elections have become critical political events that enable citizens to directly select their local leaders, fundamentally altering the landscape of Indonesian democracy (Sukmajati & Aspinall, 2022). The constitutional foundation for this democratic process is enshrined in 18(4) of the 1945 Constitution of the Republic of Indonesia, which mandates that regional heads be elected democratically.

However, the democratization process through regional elections has increasingly been characterized by the emergence of identity politics, where ethnic, religious, and cultural identities become primary mobilization tools in political contestation. This phenomenon has intensified since the implementation of simultaneous regional elections nationwide, as mandated by Law No. 10 of 2016, which scheduled national simultaneous voting for November 2024. The proliferation of identity-based campaigning poses significant challenges to the quality of democratic governance, as it often leads to the polarization of society along ethnic

and religious lines, potentially undermining the principles of inclusive democracy and social cohesion (Mietzner, 2020; Pepinsky, 2021).

## 1.2 Literature Review and Theoretical Framework

Contemporary scholarship on Indonesian democracy has extensively documented the rise of identity politics in electoral processes. Aspinall (2011) and Buehler (2016) have demonstrated how religious and ethnic identities have become increasingly salient in local politics, particularly following decentralization reforms. Recent studies by Warburton & Gammon (2021) and Setijadi (2023) have further illustrated how social media and digital platforms have amplified identity-based political mobilization, creating echo chambers that reinforce group solidarity while deepening inter-group divisions.

The theoretical framework for understanding identity politics draws primarily from Robert Dahl's (1989) conceptualization of democracy, which emphasizes seven essential characteristics: elected officials, free and fair elections, inclusive suffrage, the right to run for office, freedom of expression, alternative information sources, and associational autonomy. When identity politics becomes dominant, it can undermine several of these democratic principles, particularly the quality of information and the inclusiveness of political participation (Diamond, 2020).

Agnes Haller's definition of identity politics as a political concept focusing on difference as the primary classification system provides the analytical lens for this study (Ardipandanto, 2019). This framework is complemented by Huntington's (1996) observation that people use politics not only for their interests but also to express their identities. The intersection of legal regulation and political practice forms another crucial dimension, drawing on Mahfud MD's (2018) conceptualization of legal politics as official policy regarding laws to be implemented in achieving state objectives.

Recent empirical studies have identified significant gaps in the regulatory framework governing identity politics in regional elections. Ardipandanto (2020) noted that the absence of clear definitions of identity politics in electoral laws creates uncertainty for electoral management bodies (KPU) and election supervisory agencies (Bawaslu) when addressing identity-based violations. This regulatory ambiguity has been partially addressed by the new Criminal Code (Law No. 1 of 2023), which explicitly prohibits discrimination based on race and ethnicity in Article 244, though specific electoral applications remain unclear.

## 1.3 Research Questions

This study addresses three primary research questions:

**RQ1:** What constitutes the essence of identity politics within the regional election system in Indonesia?

**RQ2:** How is identity politics legally regulated within the current regional election framework?

**RQ3:** How is identity politics implemented in practice during regional election campaigns?

## 1.4 Research Objectives and Contribution

The primary objectives of this research are threefold: first, to identify and categorize forms of identity politics in regional elections; second, to analyze the implementation of regional elections toward creating more democratic processes; and third, to examine identity politics within the rule of law framework to achieve democratic regional elections.

This study makes several significant contributions to existing scholarship. **Theoretically**, it advances our understanding of the relationship between legal frameworks and democratic quality in diverse societies by examining how regulatory ambiguity enables identity-based political mobilization. **Practically**, the research provides policy recommendations for strengthening electoral regulations to minimize identity politics misuse

while preserving legitimate expressions of cultural diversity. **Methodologically**, it develops an analytical framework for assessing the intersection of legal regulation, political practice, and democratic outcomes in decentralized electoral systems.

The findings are expected to inform legal reform efforts, enhance electoral management practices, and contribute to the broader understanding of democratic consolidation in diverse societies. This research fills a critical gap in the literature by providing comprehensive analysis of identity politics regulation in Indonesian regional elections, offering insights relevant to other democratic transitions in multicultural contexts.

## Literature Review

### 2.1 Theoretical Foundation

#### 2.1.1 Rule of Law Theory as Grand Theory

The conception of the rule of law has evolved since the classical era of Plato and Aristotle, who defined the rule of law as a state governed based on justice principles. Both philosophers explained four fundamental human ideals corresponding to the absolute world: the ideal of pursuing truth (*idée der warhead*), morality (*idée der zedelijkheid*), beauty (*idee der schonheid*), and justice (*idée der gorechtigheid*). According to Plato and Aristotle, the expected law is just law that can provide welfare for society, not as coercion from rulers but in accordance with the will of citizens.

In modern development, the conception of the rule of law has evolved into two main traditions. First, the Continental European tradition adopting the *Rechtsstaat* concept with administrative characteristics based on the *civil law* legal system. According to F.J. Stahl, the rule of law (*rechtsstaat*) has four fundamental characteristics: recognition of human rights, separation of state powers, government based on legislation, and the existence of administrative courts.

Second, the Anglo-Saxon tradition that developed the *Rule of Law* concept with judicial characteristics. A.V. Dicey proposed three classical elements of *rule of law*: supremacy of legal rules (*supremacy of the law*) that eliminates arbitrary power, equal position before the law (*equality before the law*), and guaranteed human rights by law (*due process of the law*).

The concept of the rule of law underwent further transformation in Professor Utrecht's thinking, who distinguished between Formal Rule of Law (classical) and Material Rule of Law (modern). The Formal Rule of Law concerns formal and narrow legal understanding in the sense of written legislation, while the Material Rule of Law includes the understanding of justice within it.

Mahfud MD developed a typology of the rule of law in two temporal categories. The Formal Rule of Law (19th Century Democracy) characterized by passive government nature where the state only plays the role of "night watchman" (*nachtwakestaat*), and the Material Rule of Law (20th Century Democracy) that requires active government in realizing people's welfare through the *Welfare State* concept.

The International Commission of Jurists at the Bangkok Conference 1965 formulated characteristics of democratic government under the dynamic *Rule of Law*, including: constitutional protection, impartial judiciary, free general elections, freedom of expression, freedom of association and opposition, and civic education.

#### 2.1.2 Law as a Tool of Social Engineering Theory as Middle Theory

The theory of law as a tool of social engineering was first proposed by Roscoe Pound (1870-1964), the main figure of the *anthro-sociological jurisprudence* school of legal thought. This school developed in the United States as a reaction to the legal positivism school pioneered by John Austin (1790-1859) and Hans Kelsen (1881-1973) in the 19th century.

Roscoe Pound stated that the function of law is *social engineering*, where legal decisions handed down by judges are expected to change human behavior. This concept is highly relevant in the *anglo saxon* or *common law* legal system where judicial decisions have binding legal force.

Satjipto Rahardjo developed the concept of social engineering by stating that it constitutes intervention of a certain concept or idea aimed at influencing social change toward planned social change. Law as a tool of social engineering functions to create certain conditions that direct toward achieving prioritized legal objectives and control social life in society planned toward a better life.

Soekanto emphasized that the concept of social engineering strives to create changes in community life with the aim of achieving welfare and order. Social change essentially must be carried out continuously, measurably, and plannedly so that society's desire for social change toward a better direction can be realized.

Ahmad Ali identified positive and negative impacts of social engineering. Positive impacts include changes in certain patterns in society, strengthening habits to become more believed and obeyed, eliminating inappropriate habits, and forming new habits that are more suitable. Negative impacts can include social inequality due to community resistance to change and complexity in determining the desired model of society.

Adam Podgorecki proposed four steps in social engineering: describing the situation faced well, analyzing assessments of the situation and determining its hierarchical arrangement, verifying hypotheses, and measuring the effects of the law made.

### **2.1.3 Law as Normative Reality Theory as Applied Theory**

The theory of law as normative reality views law not merely as rules made by the state, but as a norm system that regulates community behavior. This approach emphasizes that law is a normative reality, meaning law exists not only in the form of legislative texts but also in its practice and application in social life.

Bernard Arief Sidharta proposed that legal principles that form the foundation of positive law are essentially abstractions of more general rules with broader application than the provisions of positive legal norms. Legal principles emerge from the content of human reason and conscience that enable humans to distinguish good-bad, just-unjust, and humane-inhumane.

Paul Scholten interpreted legal principles as basic thoughts contained within and behind the legal system, each formulated in legislation and judicial decisions. In line with this, Karl Larenz proposed that legal principles are ethical legal measures that provide direction to legal formation.

Bernard Arief Sidharta explained that law consists of two orders: external legal order that appears on the surface realizing formal order consisting of behavioral rules already formulated textually, and internal legal order that lies beneath the surface that materially underlies and animates the legal system.

The model of how law works in society according to Robert B. Seidman (*Model of Law and Development*) includes three interrelated components: law making processes, law implementing processes, and law occupants.

Talcott Parsons, as quoted by Satjipto Rahardjo, explained that individual actions are viewed as meaningful behavior (*action*) not merely biological behavior (*behavior*). The action structure is divided into several subsystems with their respective primary functions: social subsystem (integration), cultural subsystem (pattern maintenance), personality subsystem (goal attainment), and behavioral organism subsystem (adaptation).

## **2.2 Empirical Studies**

### **2.2.1 Developed Countries Context**

Research in developed countries shows different dynamics of identity politics from developing countries. Norris & Inglehart (2019) in a comparative study of 31 OECD countries found that identity politics in developed countries is more related to post-materialist issues such as multiculturalism, immigrant integration, and social value changes. This phenomenon reflects the transition from class-based politics to cultural identity-based politics.

Kaufmann (2018) in analyzing the Brexit phenomenon and Donald Trump's election showed how national and ethnic identity can influence electoral preferences even in countries with established democratic traditions. This study identified the emergence of "whiteshift" as a response to demographic changes and immigration.

Mudde (2007) in extensive research on radical right populism in Europe identified that identity politics in developed countries is often mobilized through "us versus them" narratives that emphasize threats to national identity or dominant culture. Populist parties use ethno-national exclusivism strategies to mobilize support.

Inglehart & Welzel (2005) in their modernization theory showed that developed countries experience transition from survival values to self-expression values, which influences how political identity is constructed and mobilized. This differs from patterns in developing countries that are still dominated by survival politics and primordial identity.

### **2.2.2 Developing Countries Context**

In the Indonesian context as a developing country, identity politics dynamics show different characteristics. Aspinall (2011) identified nine theses about democratization and ethnic politics in Indonesia, showing that ethnicity and religion became increasingly prominent in local politics post-reform, especially after the implementation of decentralization and regional autonomy.

Buehler (2016) in a comprehensive study of sharia politics in Indonesia showed how Islamic religious identity is mobilized in local political contestation to gain legitimacy and electoral support. This research revealed how Islamist activists use democratic institutions to promote sharia agenda at the regional level.

Hadiz (2016) analyzed the phenomenon of Islamic populism in Indonesia and the Middle East, showing how local oligarchs use religious identity symbols to maintain and expand power in the decentralization era. This study shows that identity politics is often manipulated by elites for material interests.

Mietzner (2020) examined the phenomenon of anti-establishment populist rhetoric in Indonesian democracy, finding that identity mobilization is often combined with anti-elite narratives to create political polarization. This research shows the complexity of identity politics dynamics in the democratization context in developing countries.

Warburton & Gammon (2021) analyzed the role of digital media in spreading disinformation and identity politics in Indonesia, showing how digital platforms accelerate polarization based on religious and ethnic identity in political contestation.

### **2.2.3 Comparative Studies**

Horowitz (1985) in his seminal work "Ethnic Groups in Conflict" provided a comparative framework for understanding how ethnic identity affects democratic stability in various countries. This study shows that electoral institutional design can influence the intensity of identity mobilization in politics, with proportional systems tending to strengthen ethnic fragmentation compared to majoritarian systems.

Chandra (2004) developed a theory about ethnic politics that emphasizes the importance of institutional context in shaping identity mobilization strategies. This research

shows that political elites will use identity categories that are most electorally advantageous, which can change with changing political contexts.

Aspinall & Mietzner (2019) compared patterns of identity politics in Indonesia, Malaysia, and the Philippines, finding that despite similarities in using identity as a mobilization tool, different historical and institutional contexts produce diverse dynamics. In Indonesia, identity politics is more fragmented due to greater ethnic and religious diversity.

Slater (2010) in a comparative study of authoritarianism in Southeast Asia showed how elites use identity politics to mobilize support and legitimize power. This study is relevant for understanding how democratic transitions affect identity mobilization strategies.

Pepinsky (2009) analyzed identity politics in the political economy context, showing that preferences for economic redistribution are often mediated by ethnic and religious identity, especially in developing countries with high levels of heterogeneity.

### **2.3 Research Gap and Positioning**

Based on the comprehensive literature review above, several significant gaps in existing literature are identified. First, although many studies examine identity politics in the general electoral context, research that specifically analyzes legal regulations on identity politics in regional head elections is still very limited. Article 69 letter b of Law Number 1 of 2015 which prohibits "insulting someone, religion, ethnicity, race, group, candidate, and/or Political Party" in campaigns shows legislative awareness of the potential dangers of identity politics, but there is no clear operational definition of identity politics itself.

Second, most existing research focuses on sociological and political aspects of identity politics phenomena, while analysis from legal and policy perspectives is still inadequate. This creates a gap between theoretical understanding of identity politics and practical implementation in the legal regulatory framework. Legal approaches are very important considering that institutional solutions through regulation can provide a framework for regulating and minimizing the misuse of identity politics.

Third, research that integrates rule of law theory with identity politics phenomena in the context of regional head elections has not been widely conducted. Yet this integration is very important for understanding how rule of law principles such as *rule of law*, human rights protection, and equality before the law can be applied to create a democratic and inclusive electoral system.

Fourth, studies using multi-level theory approaches (grand theory, middle theory, and applied theory) in analyzing identity politics are still very rare. This approach is important for providing comprehensive and in-depth analysis of the complex phenomenon of identity politics.

Fifth, research on the implementation of law as a tool of social engineering in the context of identity politics in Indonesia is still limited. Yet Roscoe Pound's concept of *law as a tool of social engineering* is very relevant for understanding how law can be used to change community political behavior patterns from those based on primordial identity to more inclusive and rational ones.

This research attempts to fill these gaps by developing comprehensive analysis of identity politics in regional head election systems from the perspective of a democratic rule of law. This study uses a multidisciplinary approach that integrates legal theory, democratic theory, and social engineering theory to provide holistic understanding of identity politics phenomena and their regulatory solutions.

The unique contribution of this research lies in developing an analytical framework that integrates three levels of theory: rule of law theory as *grand theory* to understand constitutional and legal framework contexts, law as a tool of social engineering theory as *middle theory* to

analyze mechanisms of social change through law, and law as normative reality theory as *applied theory* to understand practical implementation of legal norms in regulating identity politics.

This theoretical integration enables comprehensive analysis of three fundamental aspects: ontological nature of identity politics in regional head elections, epistemological regulation through legal frameworks, and axiological implementation that considers values and impacts on democracy. Thus, this research is expected to provide theoretical and practical contributions in creating more democratic, inclusive, and sustainable regional head elections within the framework of Indonesian rule of law.

## **RESEARCH METHODOLOGY**

### **3.1 Research Design**

This study employs a normative legal research design, which constitutes a systematic, controlled, empirical, meticulous, and critical investigation of legal phenomena to discover facts, new theories, hypotheses, and legal truths. Normative legal research is designed to examine and analyze law as norms, rules, legal principles, legal doctrines, legal theories, and other legal literature to address the legal problems under investigation. The research on identity politics in regional head election systems within a democratic rule of law state focuses on the legal norm system, including rules or legal regulations related to the systematic structure of legal events. This research aims to provide legal arguments regarding the use of identity politics in regional head election systems, specifically examining whether Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 on the Election of Governors, Regents, and Mayors adequately defines identity politics. The normative legal research approach begins with legal events and subsequently searches for legal norm references such as legislation, legal principles, and legal doctrines taught by legal scholars to discover legal construction and legal relationships.

### **3.2 Population and Sample**

The population of this study consists of all legal instruments, regulations, judicial decisions, and legal literature related to identity politics in regional head elections within the Indonesian legal system from 2004 to 2024. The sample includes a comprehensive collection of primary legal materials comprising 12 key legislative instruments and judicial decisions, 25-30 secondary legal materials including academic publications and legal commentaries, and tertiary materials including legal dictionaries and encyclopedias relevant to the research topic. Purposive sampling technique is employed to select legal materials based on their direct relevance to identity politics regulation in regional elections, chronological development of electoral law, and judicial interpretations of related constitutional provisions. The inclusion criteria cover legislative instruments directly regulating regional head elections from 2004-2024, Constitutional Court decisions on electoral disputes involving identity issues, regulatory frameworks from electoral management bodies, academic literature on identity politics in Indonesian electoral context, and comparative legal materials from similar democratic systems. The exclusion criteria eliminate legal materials not directly related to electoral processes, pre-2004 regulations predating direct regional elections, academic literature without legal analytical framework, and foreign legal materials not comparable to Indonesian legal system.

### **3.3 Data Collection**

Primary legal materials constitute authoritative sources with legal authority, including all rules formally established by the state, comprising legislation and judicial decisions with permanent legal force. These specifically include the 1945 Constitution of the Republic of Indonesia, Law Number 32 of 2004 on Regional Government, Law Number 23 of 2014 on

Regional Government, Law Number 1 of 2015 on Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 on Election of Governors, Regents, and Mayors, Law Number 10 of 2016 on Second Amendment to Law Number 1 of 2015, Law Number 7 of 2023 on Stipulation of Government Regulation in Lieu of Law Number 1 of 2022, Law Number 1 of 2023 on Criminal Code, Constitutional Court Decision Number 60/PUU-XXII/2024 on Parliamentary Threshold, Constitutional Court Decision Number 70/PUU-XXII/2024 on Minimum Age for Regional Head Candidates, KPU Regulation Number 8 of 2024 on Nomination of Governors, Regents, and Mayors, KPU Regulation Number 13 of 2024 on Campaign for Regional Head Elections, and Bawaslu Regulation Number 6 of 2024 on Supervision of Regional Head Elections. Secondary legal materials include all legal publications that are not official documents, comprising academic journals, legal commentaries, expert opinions, and scholarly analyses useful for enhancing interpretation of applicable positive law. Tertiary legal materials provide guidance and clarification for primary and secondary legal materials, including legal dictionaries, encyclopedias, and non-legal studies with relevance to the research topic. The study covers the period from 2004 to 2024, with intensive data collection conducted over 12 months, utilizing document analysis as the primary data collection technique through systematic examination of legislative texts, judicial decisions, and academic literature.

### **3.4 Variables and Measurement**

The dependent construct in this study is regulatory effectiveness in managing identity politics in regional head elections, measured through legal clarity, enforcement mechanisms, and democratic outcomes. The independent constructs include legislative comprehensiveness measured by the presence or absence of clear definitions and prohibitions, institutional enforcement capacity evaluated through KPU and Bawaslu regulatory frameworks, and judicial interpretation assessed through Constitutional Court decisions on electoral disputes. Contextual factors include democratic transition processes, decentralization policies, societal diversity, and political culture dynamics. The research employs three primary approaches: statute approach involving systematic analysis of legislative instruments regulating regional head elections and identity politics, comparative approach conducting cross-jurisdictional analysis comparing Indonesian electoral regulations with similar democratic systems, and conceptual approach utilizing theoretical analysis through the integrated framework of Rule of Law Theory, Law as Social Engineering Theory, and Law as Normative Reality Theory.

### **3.5 Data Analysis**

The study employs prescriptive analytical methods to provide arguments based on research findings, where legal argumentation provides perspectives and assessments regarding correctness, appropriateness, and legal compliance according to legal norms, principles, doctrines, and theories. Content analysis involves systematic examination of legal texts to identify explicit and implicit provisions regarding identity politics, analyzing regulatory gaps and inconsistencies across different legal instruments. Doctrinal analysis applies established legal principles and theories to evaluate the adequacy of current regulatory frameworks in addressing identity politics challenges. Comparative legal analysis conducts cross-jurisdictional examination of regulatory approaches to identity politics in electoral systems, identifying best practices and potential reforms. Interpretive analysis uses hermeneutic approach to understand the meaning and implications of legal provisions within their broader constitutional and democratic context. Legal materials are classified and analyzed by connecting various theories and relating them to applicable legislation to address research problems, with collected legal materials undergoing qualitative analysis presented descriptively, systematically, and logically before drawing specific conclusions. The analysis

utilizes NVivo 12 for qualitative data analysis and coding of legal texts, Atlas.ti for content analysis of regulatory documents, comparative constitutional law databases for cross-jurisdictional analysis, and Indonesian legal database for comprehensive legislative review. Triangulation of sources through multiple legal materials, peer review of analytical interpretations, and expert validation of legal arguments ensure analytical reliability and validity.

### **3.6 Ethical Considerations**

This normative legal research adheres to established ethical principles for legal scholarship, maintaining academic integrity through proper citation and attribution of all sources with careful distinction between original analysis and existing scholarship, implementing plagiarism prevention measures throughout the research process. The research maintains analytical objectivity in examining controversial political phenomena, avoiding partisan interpretations while acknowledging the inherent normative dimensions of legal analysis. Transparency is ensured through full disclosure of research methodology, sources, and analytical processes to enable replication and verification of findings. The research aims to contribute constructively to democratic discourse and legal development, avoiding sensationalism or conclusions that could undermine democratic institutions. Research limitations include methodological constraints as normative legal research focusing primarily on formal legal texts may not capture the full complexity of political behavior and social dynamics influencing electoral outcomes, temporal constraints due to rapid evolution of electoral law and political practices limiting long-term applicability of findings, jurisdictional scope limitations as focus on Indonesian legal system may limit generalizability to other democratic contexts, and access limitations where certain internal governmental documents or unpublished judicial materials may not be accessible. Internal validity is ensured through systematic application of established legal analytical methods, consistent theoretical framework application, and rigorous source verification, while external validity is enhanced through comparative analysis and theoretical grounding, and reliability is maintained through detailed documentation of analytical processes, transparent methodology, and replicable research design enabling verification and extension of findings by other researchers.

## **RESULTS**

### **4.1 Legal Framework Analysis**

#### **4.1.1 Regulatory Assessment of Identity Politics**

The comprehensive legal analysis reveals significant gaps in the regulatory framework governing identity politics in regional head elections. Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 on the Election of Governors, Regents, and Mayors provides the primary legal foundation for regulating electoral conduct. Law number 69(b) specifically prohibits campaign activities that "insult someone, religion, ethnicity, race, groups, candidates, and/or Political Parties." However, the analysis demonstrates that this provision lacks operational definition and clear enforcement mechanisms for identity politics violations.

The regulatory examination across three levels of legal instruments reveals inconsistent approaches to identity politics regulation. KPU Regulation Number 13 of 2024 on Campaign for Regional Head Elections emphasizes the requirement to "respect differences in ethnicity, religion, race and inter-group in society" (law number 16(e)), while Bawaslu Regulation Number 12 of 2024 on Campaign Supervision provides monitoring mechanisms but limited enforcement powers. This fragmented regulatory approach creates implementation challenges and enforcement gaps in addressing identity politics violations.

The Constitutional Court Decision Number 60/PUU-XXII/2024 on Parliamentary Threshold significantly altered the political landscape by reducing candidate nomination requirements, potentially increasing opportunities for identity-based mobilization. The decision established differentiated thresholds based on regional population size, ranging from 6.5% to 10% vote share requirements for political parties without legislative seats. This regulatory change demonstrates the dynamic nature of electoral law and its interaction with identity politics dynamics.

#### **4.1.2 Enforcement Mechanism Evaluation**

The analysis of enforcement mechanisms reveals systematic weaknesses in addressing identity politics violations. Bawaslu's monitoring capacity shows significant limitations, with the institution receiving over 1,200 campaign violation reports in 2024, yet prosecution rates remain substantially low. The case of Maruarar Sirait's statement during the 2024 Jakarta gubernatorial campaign, reported under number 027/PL/PG/Prov/12.00/XI/2024, illustrates enforcement challenges where clear identity politics violations remain unresolved despite formal reporting mechanisms.

Administrative sanctions under current regulations appear insufficient to deter identity politics violations. The legal analysis indicates that existing penalties, primarily involving campaign license revocation, fail to provide adequate deterrent effects. Criminal sanctions under Law Number 1 of 2023 on the Criminal Code could theoretically apply to severe cases, but practical implementation remains limited due to evidential and jurisdictional challenges.

The regulatory gap analysis identifies the absence of clear definitional frameworks for identity politics in electoral contexts. While law number 69(b) prohibits insulting behavior based on SARA (Ethnicity, Religion, Race, and Inter-group) categories, the legal instruments lack specific criteria for identifying subtle forms of identity mobilization that fall short of direct insult but nevertheless exploit identity divisions for electoral advantage.

### **4.2 Case Study Findings**

#### **4.2.1 Jakarta Regional Elections (2017-2024)**

The Jakarta case studies provide compelling evidence of identity politics evolution in Indonesian regional elections. The 2017 gubernatorial election involving Basuki Tjahaja Purnama (Ahok), a Christian of Chinese ethnicity, demonstrated the potent influence of religious identity mobilization. Survey data from Saiful Mujani Research and Consulting (SMRC) indicated that approximately 70% of voters acknowledged that ethnic and religious identity significantly influenced their electoral decisions during this period.

The 2024 Jakarta election revealed both continuity and change in identity politics patterns. While the campaign period saw attempts at identity mobilization, including Maruarar Sirait's controversial statement distinguishing "nationalist non-Muslim" voters, the overall electoral dynamics showed reduced intensity compared to 2017. The Litbang Kompas survey data from 2020 indicated that 60% of respondents stated that identity factors, including religion, significantly influenced their electoral choices, representing a decline from previous periods.

The enforcement response to identity politics violations in Jakarta demonstrates institutional limitations. Despite formal complaints filed with Bawaslu regarding identity-based campaign statements, resolution mechanisms proved inadequate. The case processing timeline analysis shows that most identity politics violations remain unresolved through electoral cycles, undermining deterrent effects and institutional credibility.

#### **4.2.2 North Maluku Regional Elections (2024)**

The North Maluku gubernatorial election provides a contrasting case study in identity politics dynamics. The candidacy of Sherly Tjoanda/Laos, a Christian woman of Chinese

ethnicity, generated significant identity-based opposition manifested through the Sultan of Tidore's public proclamation. The proclamation contained four explicit points rejecting non-Muslim leadership based on traditional adat principles and religious considerations, representing direct identity politics mobilization.

Despite systematic identity-based opposition, Sherly Tjoanda achieved electoral victory with 51.8% vote share, demonstrating the complex relationship between identity mobilization and electoral outcomes. The campaign analysis reveals successful counter-mobilization strategies emphasizing inclusive development programs and cross-community coalition building. Post-election surveys indicated that voters prioritized candidates' track records and policy proposals over identity considerations in determining electoral preferences.

The North Maluku case illustrates enforcement gaps in addressing traditional authority involvement in identity politics. The Sultan of Tidore's proclamation constituted clear violation of campaign regulations, yet no formal legal action was documented. This enforcement failure demonstrates the challenges of applying modern electoral law to traditional authority structures and customary political practices.

#### **4.2.3 Comparative Regional Analysis**

Cross-regional analysis reveals distinct patterns in identity politics implementation across Indonesian regional elections. Urban areas like Jakarta show greater sensitivity to identity issues but also higher levels of civic education and media scrutiny, potentially constraining overt identity mobilization. Rural and traditional regions demonstrate more explicit identity politics usage but also greater acceptance of diverse leadership under appropriate circumstances.

The demographic analysis indicates that regions with higher educational attainment and economic development show reduced susceptibility to identity politics mobilization. The Indonesia Survey Institute (LSI) data from 2020 demonstrates that 60% of voters acknowledge identity influence on political preferences, but this percentage varies significantly across educational and economic strata, ranging from 45% among university graduates to 75% among those with primary education or less.

Regional variation in enforcement effectiveness correlates with institutional capacity and political will. Metropolitan areas with stronger civil society organizations and media presence show higher reporting rates of identity politics violations but not necessarily higher resolution rates. This pattern suggests that while detection mechanisms may be stronger in urban areas, enforcement challenges remain systemic across different regional contexts.

### **4.3 Theoretical Application Results**

#### **4.3.1 Rule of Law Theory Implementation**

The application of rule of law theory as the grand theoretical framework reveals fundamental tensions between legal principles and political practice in Indonesian regional elections. The Platonic ideal of justice-based governance conflicts with empirical evidence of systematic identity politics utilization across multiple electoral cycles. The analysis demonstrates that while legal frameworks exist to regulate identity politics, implementation falls short of rule of law standards requiring equal treatment regardless of identity characteristics.

The Aristotelian emphasis on collective wisdom in law formation appears compromised by elite manipulation of identity divisions for electoral advantage. The research findings indicate that public participation in electoral oversight remains limited, with civil society engagement concentrated in urban areas while rural regions show greater susceptibility to elite-directed identity mobilization. This pattern undermines the democratic foundations essential for effective rule of law implementation.

F.J. Stahl's *rechtsstaat* principles emphasizing human rights protection and administrative justice face practical challenges in identity politics contexts. The documented cases demonstrate that minority rights receive inadequate protection when identity mobilization targets specific ethnic or religious groups. Administrative justice mechanisms prove insufficient for addressing identity-based discrimination in electoral contexts, revealing fundamental gaps in rule of law implementation.

#### **4.3.2 Social Engineering Theory Application**

The application of Roscoe Pound's social engineering theory demonstrates limited effectiveness in addressing identity politics challenges through legal intervention. While law theoretically functions as a tool for social change, the empirical evidence suggests that identity-based mobilization patterns persist despite regulatory prohibitions. The gap between legal intention and social reality indicates that law alone cannot effectively engineer social behavior in identity politics contexts.

Satjipto Rahardjo's expansion of social engineering theory emphasizing planned social change faces implementation challenges in diverse societies. The research findings indicate that attempts to engineer more inclusive political behavior through legal regulation encounter resistance from traditional authorities and established social hierarchies. The North Maluku case exemplifies these challenges, where traditional adat authorities directly challenged legal frameworks through identity-based proclamations.

Ahmad Ali's analysis of positive and negative impacts from social engineering appears validated by the research findings. Positive impacts include increased political participation among previously marginalized groups and enhanced awareness of diversity issues. Negative impacts encompass social polarization, institutional credibility erosion, and the emergence of identity-based political fragmentation that complicates democratic governance.

#### **4.3.3 Normative Reality Theory Results**

The application of law as normative reality theory reveals significant disconnections between formal legal norms and lived social experiences in Indonesian regional elections. Robert B. Seidman's three-component model (law making, law implementing, law occupant) demonstrates systematic failures across all dimensions in addressing identity politics challenges.

Law making processes show limited inclusivity in addressing identity politics concerns. The regulatory development process for electoral law appears dominated by elite political interests rather than comprehensive stakeholder consultation. This pattern undermines the legitimacy of identity politics regulations and contributes to implementation challenges at the grassroots level.

Law implementing processes reveal institutional capacity limitations and political interference. The documented enforcement gaps in Jakarta and North Maluku cases demonstrate that legal implementation depends heavily on political will and institutional capacity rather than rule-based procedures. This pattern creates inconsistent enforcement that undermines legal authority and public confidence in electoral institutions.

Law occupant behavior shows persistent patterns of identity politics utilization despite legal prohibitions. The research evidence indicates that voters, candidates, and political parties continue to engage in identity-based political behavior regardless of formal legal constraints. This pattern suggests that normative change requires deeper social transformation beyond legal regulation alone.

### **4.4 Impact Assessment and Implications**

#### **4.4.1 Positive Impacts of Identity Politics**

The empirical analysis reveals several positive dimensions of identity politics in Indonesian regional elections. Increased political participation emerges as the most significant positive outcome, with marginalized communities showing higher engagement levels when candidates share their identity characteristics. The North Maluku case demonstrates that identity politics can provide platforms for previously excluded groups to achieve political representation.

Enhanced democratic accountability represents another positive impact identified through the research. Communities that achieve representation through identity-based mobilization demonstrate increased scrutiny of government performance and policy implementation. This pattern suggests that identity politics can strengthen democratic oversight mechanisms when channeled through appropriate institutional frameworks.

Cultural preservation and recognition constitute additional positive outcomes documented in the research. Regional elections that acknowledge traditional authorities and customary practices, while maintaining democratic principles, can strengthen social cohesion and cultural continuity. The balanced approach observed in some regional contexts demonstrates potential for constructive identity politics that enhances rather than undermines democratic governance.

#### **4.4.2 Negative Impacts and Challenges**

The research identifies significant negative impacts of identity politics on democratic governance and social cohesion. Social polarization emerges as the primary concern, with identity-based mobilization creating lasting divisions between communities. The Jakarta 2017 case demonstrates how identity politics can generate social tensions that persist beyond electoral cycles, undermining long-term social stability.

Institutional degradation represents another critical negative impact documented through the research. Systematic violations of identity politics regulations without adequate enforcement responses erode public confidence in electoral institutions and rule of law principles. The enforcement gap analysis reveals that this institutional damage extends beyond individual electoral cycles, creating cumulative effects on democratic legitimacy.

Policy distortion constitutes a third major negative impact identified through the analysis. Political candidates utilizing identity politics often prioritize symbolic issues over substantive policy development, leading to governance focused on identity satisfaction rather than effective public service delivery. This pattern undermines democratic accountability and public welfare objectives.

#### **4.4.3 Regulatory Reform Implications**

The research findings suggest several critical areas for regulatory reform to address identity politics challenges more effectively. Definitional clarity emerges as the highest priority, with current legal frameworks lacking specific criteria for identifying and addressing identity politics violations. Proposed reforms should include comprehensive definitions of prohibited identity mobilization while preserving legitimate cultural expression and minority rights.

Enforcement mechanism strengthening represents a second reform priority identified through the analysis. Current administrative penalties prove insufficient to deter identity politics violations, while criminal sanctions remain largely theoretical due to implementation challenges. Reform proposals should include graduated penalty structures and specialized enforcement procedures for identity politics cases.

Institutional capacity development constitutes a third reform area suggested by the research findings. Electoral management bodies require enhanced training, resources, and

authority to address identity politics challenges effectively. The analysis indicates that current institutional arrangements cannot adequately handle the complexity and sensitivity of identity politics violations in diverse regional contexts.

These comprehensive results demonstrate the multifaceted nature of identity politics in Indonesian regional elections and the significant challenges facing legal frameworks designed to regulate such behavior. The findings provide empirical foundation for understanding how identity politics operates in practice and the limitations of current regulatory approaches in addressing this complex phenomenon within Indonesia's democratic system.

## **DISCUSSION**

### **5.1 Interpretation of Main Findings**

The comprehensive analysis of identity politics in Indonesian regional head elections reveals a complex interplay between legal frameworks, political practice, and social reality that challenges conventional understanding of democratic governance in diverse societies. The research findings demonstrate that current legal instruments, while formally prohibiting identity-based discrimination in electoral campaigns, prove inadequate in addressing the sophisticated forms of identity mobilization that characterize contemporary Indonesian politics.

The regulatory gap identified in this study reflects deeper theoretical tensions between liberal democratic ideals and the practical requirements of managing diversity in post-authoritarian contexts. Article 69(b) of Law Number 1 of 2015, which prohibits insulting behavior based on SARA categories, represents an attempt to translate rule of law principles into electoral practice. However, the enforcement failures documented in Jakarta and North Maluku cases suggest that legal prohibition alone cannot address the underlying social dynamics that drive identity politics.

The theoretical application results reveal fundamental limitations in applying Western legal concepts to Indonesian democratic contexts. The rule of law theory, as conceptualized by Plato and Aristoteles, assumes a level of social consensus about justice and collective wisdom that may not exist in highly diverse societies. The Indonesian experience demonstrates that legal frameworks designed to promote equality and inclusion can be undermined by persistent social hierarchies and identity-based loyalties that predate modern democratic institutions.

The social engineering approach advocated by Roscoe Pound and developed by Satjipto Rahardjo encounters similar challenges when applied to identity politics regulation. The research findings indicate that law as a tool for social change faces resistance from deeply embedded cultural practices and traditional authority structures. The Sultan of Tidore's proclamation in North Maluku exemplifies how traditional authorities can directly challenge modern legal frameworks, creating conflicts between customary law and statutory regulation that complicate enforcement efforts.

The normative reality analysis reveals significant disconnections between formal legal norms and lived social experiences in regional electoral contexts. Robert B. Seidman's three-component model effectively captures these disconnections, showing systematic failures in law making, implementation, and occupant behavior. The persistence of identity politics despite legal prohibitions suggests that normative change requires more comprehensive social transformation beyond legal regulation alone.

### **5.2 Comparison with Previous Studies Consistent Findings**

The research findings align with several established patterns identified in previous studies of identity politics in democratic transitions. Aspinall's (2011) analysis of democratization and ethnic politics in Indonesia anticipated many of the challenges documented in this study, particularly regarding the increased prominence of ethnicity and religion in local politics following decentralization. The current research confirms Aspinall's prediction that direct regional elections would provide new opportunities for identity-based mobilization while creating tensions with national unity objectives.

The enforcement challenges identified in this study are consistent with Buehler's (2016) findings regarding the implementation of religious regulations in Indonesian local politics. Both studies demonstrate how local political actors can exploit regulatory ambiguities and enforcement weaknesses to pursue identity-based strategies despite formal legal constraints. The pattern of selective enforcement and political interference in legal processes appears to be a systematic feature of Indonesian democratic governance rather than isolated incidents.

The positive impacts of identity politics documented in this research, particularly regarding increased political participation among marginalized groups, align with broader theoretical literature on minority representation in diverse democracies. The North Maluku case supporting Sherly Tjoanda mirrors findings from other post-colonial contexts where identity politics can provide pathways for previously excluded groups to achieve political representation and recognition.

### **Contradictory Findings**

Several findings from this research contradict prevailing assumptions in the academic literature about identity politics in developing democracies. Contrary to Horowitz's (1985) predictions about ethnic conflict in divided societies, the Indonesian cases demonstrate that identity-based mobilization does not necessarily lead to violent conflict or democratic breakdown. The peaceful resolution of identity-based tensions in both Jakarta and North Maluku suggests that Indonesian democratic institutions may be more resilient than comparative literature suggests.

The research findings also challenge Chandra's (2004) theory about the relationship between institutional design and ethnic mobilization. While Chandra argues that electoral institutions primarily determine identity politics patterns, this study demonstrates that informal institutions, traditional authorities, and social networks play equally important roles in shaping identity mobilization strategies. The effectiveness of traditional authority proclamations in North Maluku contradicts institutional theories that emphasize formal electoral rules as primary determinants of political behavior.

The enforcement patterns documented in this study contradict expectations from rule of law literature about the relationship between legal frameworks and behavioral change. Unlike predictions from legal institutionalist theory that suggest clear regulations and adequate sanctions should deter prohibited behavior, the Indonesian experience shows persistent violation patterns despite formal legal prohibitions and institutional oversight mechanisms.

### **Novelty Findings**

This research contributes several novel insights to the academic literature on identity politics and electoral regulation. The documentation of sophisticated identity mobilization techniques that avoid direct legal prohibition while achieving similar effects represents a new understanding of how political actors adapt to regulatory constraints. The Maruarar Sirait case in Jakarta demonstrates how coded language and implicit appeals can mobilize identity-based support while maintaining plausible deniability regarding legal violations.

The finding that traditional authorities can effectively challenge modern electoral regulations through customary law appeals adds new dimensions to understanding legal

pluralism in democratic contexts. The Sultan of Tidore's proclamation represents a form of resistance to state authority that existing literature on identity politics has not adequately addressed. This pattern suggests that democratization in traditional societies may require more complex accommodation of customary authority than previously recognized.

The research also provides novel evidence about the relationship between education, economic development, and susceptibility to identity politics. The finding that identity influence varies significantly across educational and economic strata, ranging from 45% among university graduates to 75% among those with primary education, offers new insights for understanding the social foundations of identity politics that could inform both theoretical development and policy interventions.

### **5.3 Theoretical Implications**

The research findings generate significant implications for theoretical understanding of law, democracy, and identity in diverse societies. The rule of law theory requires substantial modification to address the challenges posed by persistent identity politics in post-authoritarian contexts. The classical emphasis on equal treatment regardless of personal characteristics encounters practical difficulties when group identities remain central to social organization and political mobilization.

The study suggests that rule of law implementation in diverse societies may require more sophisticated approaches that acknowledge group differences while maintaining individual equality principles. This finding supports emerging theories of multicultural constitutionalism that propose differentiated approaches to legal equality based on group characteristics and historical experiences. The Indonesian case demonstrates both the potential and limitations of such approaches in practice.

The social engineering theory implications center on the limitations of law as a tool for behavioral change in deeply divided societies. The research findings suggest that Roscoe Pound's optimistic view of law's capacity to engineer social change may require qualification when applied to identity politics contexts. Legal regulation appears more effective at constraining overt discrimination than at addressing subtle forms of identity mobilization that achieve similar effects through indirect means.

The normative reality theory implications focus on the complex relationships between formal legal norms and informal social practices. The research demonstrates that legal effectiveness depends heavily on alignment between formal rules and social expectations, traditional authorities, and cultural practices. This finding supports theoretical approaches that emphasize the embeddedness of legal institutions in broader social contexts and the importance of understanding law as part of larger normative systems.

The study also contributes to democratic theory by demonstrating how identity politics can simultaneously strengthen and weaken democratic governance. The dual nature of identity politics as both an inclusion mechanism for marginalized groups and a source of social division challenges binary approaches to evaluating its democratic implications. This finding suggests that democratic theory needs more nuanced frameworks for assessing the trade-offs between group representation and social cohesion.

### **5.4 Practical Implications**

The research findings generate important practical implications for electoral management, legal reform, and democratic governance in Indonesia and similar diverse societies. The regulatory framework analysis reveals urgent needs for definitional clarity in identity politics regulations. Current legal instruments lack specific criteria for identifying prohibited identity mobilization, creating enforcement challenges and legal uncertainty that undermine regulatory effectiveness.

The enforcement mechanism evaluation suggests that administrative penalties alone are insufficient to deter identity politics violations. The research findings support proposals for graduated penalty structures that include both administrative and criminal sanctions, along with specialized enforcement procedures designed specifically for identity politics cases. Electoral management bodies require enhanced training, resources, and authority to address the complexity and sensitivity of identity politics violations effectively.

The case study findings demonstrate the importance of proactive rather than reactive approaches to identity politics regulation. The delayed and inadequate responses to violations in Jakarta and North Maluku cases illustrate the limitations of complaint-based enforcement systems. Electoral authorities should develop monitoring capabilities that can identify identity politics patterns before they escalate into serious violations or social conflicts.

The theoretical application results indicate that legal reform alone cannot address identity politics challenges without broader social and institutional changes. Educational initiatives that promote civic awareness and cross-cultural understanding appear essential for reducing susceptibility to identity-based appeals. The correlation between education levels and identity politics influence suggests that long-term solutions require sustained investment in civic education and democratic capacity building.

The positive and negative impact analysis provides guidance for policy interventions that maximize the benefits of identity representation while minimizing social division risks. Strategies that channel identity politics toward constructive representation rather than exclusionary mobilization appear most promising for maintaining democratic stability while accommodating diversity. This approach requires careful institutional design that provides legitimate channels for group representation without encouraging zero-sum competition between communities.

## **5.5 Limitations**

### **Methodological Limitations**

This research faces several methodological limitations that constrain the generalizability and completeness of its findings. As normative legal research, the study focuses primarily on formal legal texts and institutional arrangements, which may not capture the full complexity of informal political behaviors and social dynamics that influence electoral outcomes. The reliance on documented cases and official reports may underestimate the extent of identity politics practices that remain unreported or undetected by formal monitoring systems.

The temporal scope of the research, while comprehensive in covering recent electoral cycles, may not adequately capture longer-term trends in identity politics evolution or the cumulative effects of regulatory interventions over time. The rapid changes in Indonesian political landscape and electoral regulations create challenges for developing stable analytical frameworks that remain relevant across different time periods.

The comparative approach, while providing valuable insights from multiple regional contexts, is limited by the availability of systematic data across different regions and electoral cycles. Regional variations in institutional capacity, political culture, and social composition create challenges for developing generalizable conclusions about identity politics patterns and regulatory effectiveness.

### **Analytical Limitations**

The research scope limitations reflect the inherent challenges of studying complex political phenomena that intersect legal, social, and cultural dimensions. The focus on formal electoral processes may not adequately address the role of informal networks, traditional authorities, and customary practices that significantly influence political behavior in many

Indonesian regions. The Sultan of Tidore case illustrates how traditional authority structures can operate parallel to formal electoral institutions in ways that formal legal analysis cannot fully capture.

The theoretical framework limitations arise from applying primarily Western legal and political theories to Indonesian contexts that may require indigenous theoretical approaches. While the three-level theoretical integration provides analytical depth, it may not adequately address specifically Indonesian or Southeast Asian theoretical perspectives that could provide additional insights into identity politics dynamics.

The enforcement analysis limitations reflect restricted access to internal government documents and confidential enforcement proceedings that could provide more complete understanding of regulatory implementation challenges. The study relies primarily on publicly available information, which may not reveal the full extent of political interference, resource constraints, or institutional conflicts that affect enforcement effectiveness.

### **Measurement Limitations**

The identity politics measurement challenges stem from the inherently subjective and context-dependent nature of identity-based appeals in political communication. The research relies on documented cases of clear identity politics violations, which may represent only the most overt examples of a much broader phenomenon that includes subtle forms of identity mobilization that avoid formal detection.

The impact assessment limitations reflect the difficulty of isolating identity politics effects from other factors that influence electoral outcomes and social cohesion. The research cannot definitively establish causal relationships between specific identity politics practices and observed social or political changes, limiting the precision of impact evaluations and policy recommendations.

The comparative analysis limitations arise from differences in data availability, reporting standards, and institutional capacity across different regional contexts. These variations make systematic comparison challenging and may introduce biases toward regions with better documentation and monitoring capabilities.

### **5.6 Future Research Directions**

The research findings suggest several promising directions for future investigation that could advance understanding of identity politics regulation and democratic governance in diverse societies. Longitudinal studies tracking identity politics evolution across multiple electoral cycles would provide valuable insights into the long-term effectiveness of regulatory interventions and the adaptation strategies employed by political actors to circumvent legal constraints.

Comparative international research examining identity politics regulation in other diverse democracies could identify best practices and alternative approaches that might be applicable to Indonesian contexts. Countries such as India, Malaysia, Nigeria, and South Africa face similar challenges in managing identity politics within democratic frameworks, and systematic comparison could reveal effective regulatory strategies and institutional arrangements.

Ethnographic research examining the micro-level dynamics of identity politics mobilization could provide deeper understanding of how identity appeals operate in practice and how communities respond to such appeals. This research approach could reveal the informal networks, cultural practices, and social relationships that formal legal analysis cannot adequately capture.

Technology-focused research investigating the role of digital media and social platforms in identity politics mobilization represents an increasingly important area for

investigation. The rapid growth of social media usage in Indonesian politics creates new opportunities and challenges for identity-based mobilization that current regulatory frameworks may not adequately address.

Experimental research testing different regulatory approaches and enforcement mechanisms could provide evidence-based guidance for legal reform initiatives. Pilot programs implementing alternative identity politics regulations in selected regions could generate valuable data about the effectiveness of different policy interventions before broader implementation.

Interdisciplinary research integrating legal, political science, anthropological, and sociological perspectives could develop more comprehensive theoretical frameworks for understanding identity politics in diverse societies. Such research could bridge the gap between formal institutional analysis and cultural understanding that limits current theoretical approaches.

Finally, participatory research involving communities affected by identity politics could provide valuable insights into local perspectives on regulatory effectiveness and alternative approaches to managing diversity in democratic contexts. Community-based research could identify indigenous solutions and traditional conflict resolution mechanisms that formal legal systems might incorporate or adapt for contemporary democratic governance.

## **CONCLUSION**

### **6.1 Summary of Key Findings**

This research comprehensively examined identity politics in Indonesian regional head elections within the framework of democratic rule of law, revealing significant gaps between legal aspirations and political reality. The analysis of Law Number 1 of 2015, particularly Article 69(b), demonstrates that current regulatory frameworks lack operational definitions and effective enforcement mechanisms for addressing identity politics violations. The documented cases from Jakarta (2017-2024) and North Maluku (2024) illustrate how political actors exploit regulatory ambiguities to mobilize identity-based support while avoiding legal sanctions.

The enforcement analysis reveals systematic institutional failures across electoral management bodies, with Bawaslu receiving over 1,200 violation reports in 2024 yet achieving minimal prosecution rates. High-profile cases such as Maruarar Sirait's controversial statements and the Sultan of Tidore's proclamation remained unresolved despite clear regulatory violations, demonstrating the inadequacy of current enforcement mechanisms. The research identifies a critical paradox where identity politics simultaneously enhances democratic participation among marginalized groups while undermining social cohesion and institutional integrity.

The theoretical application reveals fundamental limitations in applying classical rule of law principles to diverse post-authoritarian contexts. Social engineering approaches prove insufficient when confronting deeply embedded cultural practices and traditional authority structures that operate parallel to modern democratic institutions. The normative reality analysis exposes significant disconnections between formal legal norms and lived social experiences, indicating that legal regulation alone cannot address the complex social dynamics driving identity politics.

### **6.2 Theoretical Contributions**

This study makes significant theoretical contributions to understanding law and democracy in diverse societies. The integrated application of rule of law theory, social engineering theory, and normative reality theory provides a novel analytical framework for examining identity politics regulation that transcends traditional single-theory approaches. The research demonstrates that classical rule of law concepts require substantial modification when

applied to societies where group identities remain central to social organization and political mobilization.

The study extends Roscoe Pound's social engineering theory by revealing its limitations in contexts where law encounters resistance from traditional authority structures and customary practices. The findings challenge optimistic assumptions about law's capacity to engineer social change, particularly in addressing subtle forms of identity mobilization that achieve discriminatory effects through indirect means. The research contributes to democratic theory by demonstrating how identity politics creates simultaneous inclusion and exclusion effects that complicate binary evaluations of its democratic implications.

The theoretical integration reveals that effective identity politics regulation requires more sophisticated approaches that acknowledge group differences while maintaining individual equality principles. This finding supports emerging theories of multicultural constitutionalism while highlighting practical implementation challenges in diverse democratic contexts.

### **6.3 Practical Contributions**

The research provides concrete recommendations for improving identity politics regulation in Indonesian regional elections. The regulatory gap analysis supports proposals for comprehensive legal reform including clear operational definitions of prohibited identity mobilization, graduated penalty structures combining administrative and criminal sanctions, and specialized enforcement procedures for identity politics violations. The study demonstrates the urgent need for enhanced institutional capacity among electoral management bodies, including specialized training and expanded authority to address identity politics challenges effectively.

The case study findings inform best practices for proactive identity politics prevention rather than reactive violation response. The research supports educational initiatives promoting civic awareness and cross-cultural understanding as essential complements to legal regulation. The correlation identified between education levels and identity politics susceptibility provides empirical foundation for targeted intervention strategies.

The comparative analysis offers valuable insights for other diverse democracies facing similar challenges in managing identity politics within democratic frameworks. The Indonesian experience provides both positive and cautionary examples for countries developing regulatory approaches to identity-based electoral mobilization.

### **6.4 Final Remarks**

This research illuminates the complex challenges facing democratic governance in diverse societies where identity politics intersects with legal regulation and electoral competition. While identity politics poses significant challenges to democratic ideals of equal citizenship and inclusive governance, it also provides essential pathways for marginalized group representation and political participation. The key lies not in eliminating identity from politics, but in developing more sophisticated regulatory frameworks that channel identity politics toward constructive representation rather than divisive mobilization.

The Indonesian experience demonstrates that successful identity politics regulation requires comprehensive approaches combining clear legal frameworks, effective enforcement mechanisms, institutional capacity development, and sustained civic education initiatives. Legal solutions alone prove insufficient without broader social transformation that promotes cross-cultural understanding and democratic values.

Future democratic development in Indonesia and similar diverse societies depends on achieving better balance between acknowledging group differences and maintaining national unity. This research provides empirical foundation and theoretical insights for pursuing this

challenging but essential objective, contributing to both academic understanding and practical policy development in the critical area of identity politics regulation within democratic governance frameworks.

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