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Direct Regional Elections in Indonesia: A Critical Examination Through Pancasila Democracy and Islamic Constitutional Law

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Abstrak

Following the simultaneous *Pilkada* (regional elections) on 27 November 2024, public debate has re-emerged regarding proposals to replace direct regional head elections with indirect

mechanisms via the Regional People's Representative Council or DPRD. This study evaluates the systemic compatibility of direct regional elections through the dual frameworks of Pancasila democracy (national ideology political system) and *fiqh siyasah* (Islamic constitutional law). Employing a normative legal research method with a conceptual and statutory approach, this study analyzes primary legal materials, historical minutes, and classical Islamic treatises. The findings show that direct regional elections diverge from Pancasila democracy because they bypass the core tenets of representation, deliberation, consensus, and wisdom institutionalized in Pancasila's fourth principle. From the perspective of Islamic constitutional law, executive selection is structurally predicated on *shūrā* (consultative deliberation) through *ahl al-ḥall wa al-'aqd* (representative institutions). Consequently, the study concludes that direct regional elections conflict with both normative frameworks, suggesting a constitutional imperative to realign Indonesia's electoral design with its foundational philosophical identity.

Keywords: Regional Head Elections; Pancasila Democracy; Islamic Constitutional Law; Deliberative Democracy; Representative Institutions.

A. Introduction

The debate over electing regional heads through the Regional People's Representative Council (DPRD) has sparked academic discussion. Opponents argue that although direct regional elections require evaluation because of concerns about effectiveness and efficiency, they should not revert to DPRD elections. This view is supported by Titi Anggraini and Feri Amsari, rejecting DPRD-based elections and calling the proposal problematic.¹

¹ Mawardi Mawardi et al., "Regional Head Elections by the People's Representative Council: A Critical Analysis of Constitutionality and Democratic

Some scholars argue that the proposal to restore DPRD-based regional head elections deserves consideration because direct elections have been associated with high campaign costs, money politics, and corruption. These conditions are believed to encourage transactional politics and weaken the quality of local democracy, suggesting the need to reconsider the current electoral mechanism.²

The proposal to replace direct regional head elections with DPRD-based elections is not new. In 2014, Law No. 22 of 2014 introduced an indirect electoral mechanism through the DPRD. However, following strong public opposition, the government repealed the law through Government Regulation instead of Law (Perpu) No. 1 of 2014, thereby reinstating direct regional elections. This episode demonstrates the persistent contestation over the most appropriate mechanism for selecting regional leaders within Indonesia's democratic and constitutional framework.³

The cost of direct regional elections continues to rise dramatically. According to data from the Indonesian Ministry of Internal Affairs (Kemendagri), the 2024 simultaneous direct regional elections are estimated to cost more than IDR 41 trillion. This figure comes from regional governments' (Pemda) budget allocations in the 2024 Regional Grant Agreement (NPHD) with the General

Backsliding," *International Journal Of Humanities Education and Social Sciences* 5, no. 5 (2026): 2331–41, <https://doi.org/https://doi.org/10.55227/ijhess.v5i5.2149>. See also Ferri Amsari, *Wacana Pilkada Dikembalikan Lewat DPRD*, Feri Amsari: *Logika Sesat*, <https://www.tempo.co/politik/wacana-pilkada-dikembalikan-lewat-dprd-feri-amsari-logika-sesat--1182067>, accessed on 06/01/2025.

² Edward Aspinall et al., "VOTE BUYING IN INDONESIA: CANDIDATE STRATEGIES, MARKET LOGIC AND EFFECTIVENESS," *Journal of East Asian Studies* 17 (2017): 1–27, <https://doi.org/10.1017/jea.2016.31>.

³ Leo Agustino, M Dian Hikmawan, and Jonah Silas, "Regional Head Elections, High-Cost Politics, and Corruption in Indonesia," *Otoritas: Jurnal Ilmu Pemerintahan* 13, no. 1 (2023): 44–59; Edward Aspinall and Marcus Mietzner, "Southeast Asia's Troubling Elections: Nondemocratic Pluralism in Indonesia," *Journal of Democracy* 3, no. 4 (2019): 104–18, <https://doi.org/https://doi.org/10.1353/jod.2019.0055>.

Elections Commission (KPU), the Elections Supervisory Agency (Bawaslu), the Indonesian National Armed Forces (TNI), and the local police.⁴

Article 18 (4) of the 1945 Constitution requires that governors, regents, and mayors be elected democratically but does not prescribe whether the mechanism should be direct or indirect. Accordingly, both direct elections and DPRD-based elections are constitutionally permissible. Nevertheless, studies show that direct regional elections are often associated with money politics, electoral conflict, and corruption, raising concerns about their effectiveness in promoting democratic governance.⁵

Despite the substantial financial and social costs of direct regional elections, improvements in Indonesia's democratic quality remain limited. Indonesia remains classified as a “flawed democracy”, while electoral participation has declined in recent regional elections. These conditions suggest that high electoral expenditures have not necessarily translated into stronger democratic governance, thereby reinforcing the need to reassess the effectiveness of the current regional election system.⁶

⁴ Edward Aspinall and Mada Sukmajati, *Electoral Dynamics in Indonesia: Money Politics, Patronage and Clientelism at the Grassroots* (Singapore: NUS Press, 2016), <https://doi.org/https://doi.org/10.2307/j.ctv1xxzz2>. See also: Vitorio Mantelaen, Anggaran Pilkada 2024 Ditaksir Tembus Rp 41 Triliun, <https://nasional.kompas.com/read/2024/07/10/05485611/anggaran-pilkada-2024-ditaksir-tembus-rp-41-triliun>, accessed on 16/12/2024.

⁵ Simon Butt, *The Constitution of Indonesia: A Contextual Analysis* (Oxford: Hart Publishing, 2012); Aspinall et al., “VOTE BUYING IN INDONESIA : CANDIDATE STRATEGIES , MARKET LOGIC AND EFFECTIVENESS”; Aspinall and Mietzner, “Southeast Asia’s Troubling Elections: Nondemocratic Pluralism in Indonesia.”

⁶ Aspinall and Mietzner, “Southeast Asia’s Troubling Elections: Nondemocratic Pluralism in Indonesia”; Larry Diamond, “Facing Up to the Democratic Recession,” *Journal of Democracy* 26, no. 1 (2015), <https://doi.org/https://doi.org/10.1353/jod.2015.0009>.

This study analyzes direct regional elections from the perspectives of Pancasila democracy and *fiqh siyasah* (Islamic constitutional law). Although previous studies have examined regional elections from constitutional and political perspectives, limited attention has been given to assessing their compatibility with the normative principles of Pancasila democracy. As the philosophical foundation of the Indonesian state, Pancasila provides an appropriate framework for evaluating whether the current regional election system reflects Indonesia's constitutional identity and democratic values.

Previous studies on Indonesia's regional elections have predominantly focused on electoral competitiveness, democratic quality, decentralization, and money politics. Aspinall and Mietzner argue that Indonesia's electoral democracy has remained competitive despite experiencing democratic regression and increasing illiberal tendencies.⁷ Similarly, Aspinall and Mietzner demonstrate that competitive elections have coexisted with declining democratic quality, particularly through the personalization of politics and weakening political institutions.⁸ Aspinall et al. further show that vote buying and clientelistic networks remain pervasive features of Indonesian elections, undermining electoral integrity and accountability.⁹ Mietzner likewise identifies electoral narrowing, identity

⁷ Aspinall and Mietzner, "Southeast Asia's Troubling Elections: Nondemocratic Pluralism in Indonesia."

⁸ Edward Aspinall and Marcus Mietzner, "Indonesia's Democratic Paradox: Competitive Elections amidst Rising Illiberalism," *Bulletin of Indonesian Economic Studies* 55, no. 3 (2019): 295–317, <https://doi.org/https://doi.org/10.1080/00074918.2019.1690412>.

⁹ Aspinall et al., "VOTE BUYING IN INDONESIA: CANDIDATE STRATEGIES, MARKET LOGIC AND EFFECTIVENESS."

politics, and executive illiberalism as important factors contributing to Indonesia's democratic decline.¹⁰

From a decentralization perspective, Lele emphasizes that the quality of local governance depends not only on institutional design but also on accountability and transparency within decentralized political systems.¹¹ Meanwhile, studies on Islamic political thought generally discuss *shūrā* (consultative deliberation), political legitimacy, and constitutional principles in *fiqh siyasah*. At the same time, scholarship on Pancasila democracy primarily examines its philosophical and constitutional foundations rather than its application to regional electoral design. Consequently, existing scholarship has paid limited attention to integrating the normative perspectives of Pancasila democracy and *fiqh siyasah* (Islamic constitutional law) into a unified analytical framework for evaluating Indonesia's direct regional election system. This study addresses that gap by examining the compatibility of direct regional elections with the normative principles of both Pancasila democracy and Islamic constitutional law.

Unlike previous studies that examine regional elections primarily from constitutional, political, or governance perspectives, this article develops an integrated normative framework by combining Pancasila democracy and *fiqh siyasah* (Islamic constitutional law) to evaluate the institutional design of Indonesia's regional election system.

¹⁰ Marcus Mietzner, "Authoritarian Innovations in Indonesia: Electoral Narrowing, Identity Politics and Executive Illiberalism," *Democratization* 27, no. 6 (2020): 1021–36, <https://doi.org/https://doi.org/10.1080/13510347.2019.1704266>.

¹¹ Gabriel Lele, "Asymmetric Decentralization and the Problem of Governance: The Case of Indonesia," *Asian Politics & Policy* 11, no. 4 (2019): 544–65, <https://doi.org/https://doi.org/10.1111/aspp.12493>.

This integrated perspective constitutes the principal contribution of the present study.

B. Method

This study employs socio-legal (empirical legal) research utilizing a qualitative, library-based approach. Rather than treating it as an isolated, autonomous normative system, a socio-legal framework conceptualizes it as an embedded social institution that continuously interacts with political and historical variables.¹² The data utilized consists entirely of qualitative secondary data, categorized into primary and secondary legal materials.

Primary legal materials comprise legally binding instruments and foundational historical records, including the amended 1945 Constitution of the Republic of Indonesia, Law No. 10 of 2016, Law No. 6 of 2020, the minutes of the BPUPKI/PPKI meetings, and *fiqh siyasah* (classical Islamic constitutional treatises) by Al-Mawardi and Ibn Taimiyyah. Secondary legal materials consist of peer-reviewed journal articles, academic books, and scholarly literature analyzing *Pilkada* (regional elections) and democratic governance.

Data collection was conducted through documentation and comprehensive literature reviews.¹³ The gathered materials were subsequently analyzed qualitatively using content analysis and contextual legal interpretation to

¹² Leon Mayhew, *Law and Society* (Boston: Bedford, 1971); Reza Banakar and Max Travers, *An Introduction to Law and Social Theory*, 2nd ed. (Oxford: Hart, 2013).

¹³ Mike McConvilee and Wing Hong Chui, *Research Methods for Law*, 2nd ed. (Edinburgh: Edinburgh University Press, 2017).

evaluate how socio-political dynamics shape the statutory framework of direct regional elections.¹⁴

C. Result and Discussion

1) The Pancasila Democracy and *Fiqh Siyasa* (Islamic Constitutional Law)

As the philosophical foundation and state ideology of Indonesia, Pancasila occupies the position of the *staats fundamental norm* (fundamental norm of the state), serving as the highest normative foundation of the Indonesian legal order. Embedded in the Preamble to the 1945 Constitution, Pancasila constitutes the source of constitutional legitimacy and provides the fundamental values from which the Constitution and all legislation derive their validity. Consequently, the formulation, interpretation, and development of national law must be consistent with the principles embodied in Pancasila, ensuring coherence between constitutional norms and the ideological objectives of the Indonesian state. In this capacity, Pancasila functions not only as the source of legal values but also as the normative paradigm guiding legal reform, constitutional interpretation, democratic governance, and the design of public institutions, including the regional electoral system.¹⁵

¹⁴ Terry Hutchinson, *Researching and Writing in Law*, 4th ed. (Sydney: Lawbook CO, 2018).

¹⁵ Yudi Latif, "The Religiosity, Nationality, and Sociality of Pancasila: Toward Pancasila through Soekarno's Way," *Studia Islamika* 25, no. 2 (2018), <https://doi.org/https://doi.org/10.15408/sdi.v25i2.7502>; Rahmanto Putra and Retno Saraswati, "POLITIK HUKUM PANCASILA DALAM MENGHADAPI ARUS GLOBALISASI (Pengaruh Globalisasi Ekonomi Terhadap Proses Ratifikasi Charter Of The Association Of Southeast Asian Nations Menjadi Undang-Undang Nomor 38 Tahun 2008 Tentang

The concept of Pancasila Democracy is rooted in the fourth principle of Pancasila, "Democracy guided by the inner wisdom of deliberation among representatives," which reflects Indonesia's distinctive constitutional model of democracy. As Yudi Latif argues, placing the democratic principle between the third principle (the unity of Indonesia) and the fifth principle (social justice for all the people of Indonesia) signifies that democracy should function not merely as a procedural mechanism for political participation but as an instrument for preserving national cohesion and realizing social justice. Accordingly, Pancasila democracy presupposes social integration and national solidarity as essential conditions for democratic governance, while *musyawarah* (deliberation) and representation constitute its principal decision-making mechanisms. Democratic practices are therefore expected to strengthen national unity and promote equitable social welfare; conversely, democratic processes that intensify social fragmentation, political polarization, or economic inequality deviate from the normative values embodied in Pancasila.¹⁶

According to Ir. Soekarno, the democracy that underpins Indonesian independence rests on three principles: democracy based on consensus; democracy based on representation; and democracy based on deliberation. Indonesia is not a nation solely for one person or one group. According to Ir. Soekarno, Indonesia was founded for all people and all groups:

Pengesahan Piagam ASEAN)," *Law Reform* 12, no. 256–266 (2016), <https://doi.org/https://doi.org/10.14710/lr.v12i2.15878>.

¹⁶ Yudi Latif, "The Religiosity, Nationality, and Sociality of Pancasila: Toward Pancasila through Soekarno's Way"; Yudi Latif, *Negara Paripurna: Historisitas, Rasionalitas, Dan Aktualitas Pancasila* (Jakarta: Gramedia Pustaka Utama, 2012).

“all for all, one for all, all for one”. Bung Karno believed that a strong Indonesia must be based on deliberation and representation. All issues are decided by consensus, through deliberation in representative institutions.¹⁷

Muhammad Yamin conceptualized Indonesian democracy as resting upon four interrelated principles: *musyawarah* (deliberation), *mufakat* (consensus), *perwakilan* (representation), and *hikmat kebijaksanaan* (wisdom). During the BPUPK session on 29 May 1945, Yamin argued that these principles constituted the normative foundation of the future Indonesian state. He maintained that deliberation derives from the Islamic principle of *shūrā*, as reflected in Qur'an 42:38, which emphasizes collective consultation in public affairs. Representation, meanwhile, was rooted in Indonesia's indigenous political traditions, particularly the representative governance practiced in villages and customary communities across Java, Minangkabau, Bugis, Minahasa, and other regions. Finally, Yamin regarded *hikmat kebijaksanaan* (wisdom), or rational judgment, as the ethical foundation of democratic decision-making, ensuring that political authority is exercised through reasoned deliberation oriented toward the public interest. Collectively, these principles distinguish Pancasila democracy from majoritarian democracy by emphasizing deliberation,

¹⁷ Raden Mas Achmad Basar Kusuma, *Lahirnya Undang-Undang Dasar 1945: Memuat Salinan Dokumen Otentik Badan Oentoek Menyelidiki Oesaha-Oesaha Persiapan Kemerdekaan*. (Jakarta: Badan Perbit FH UI, 2004), 160-161.

representation, consensus, and ethical governance as the constitutional basis of political decision-making.¹⁸

Pancasila democracy reflects a model of democracy that incorporates ethical and spiritual values into the exercise of political authority. This conception aligns with Islamic constitutional thought, which regards the Qur'an as providing normative principles for governance while allowing the state's institutional design and technical mechanisms to be developed through *ijtihad* (human reasoning) in response to changing social and political contexts. One of the fundamental principles emphasized by the Qur'an is *shūrā* (consultative deliberation), as expressed in Q.S. Āli 'Imrān [3]:159, where the Prophet Muhammad is instructed to consult with the community in public affairs before making political decisions. The verse demonstrates that consultation constitutes a normative principle of governance characterized by participation, deliberation, and collective responsibility rather than authoritarian decision-making. Accordingly, both Pancasila democracy and Islamic constitutional law recognize *musyawarah* (deliberation) as an essential constitutional value for achieving decisions that promote justice, *maṣlaḥah* (public welfare), and the common good.¹⁹

¹⁸ Saafroedin Bahar, Ananda Baharudin Kusuma, and Nannie Hudawati, *Risalah Sidang BPUPKI – PPKI 28 Mei 1945 – 22 Agustus 1945* (Jakarta: Sekretariat Negara RI, 1995); Yudi Latif, "The Religiosity, Nationality, and Sociality of Pancasila: Toward Pancasila through Soekarno's Way."

¹⁹ Kaelan, *Negara Pancasila* (Yogyakarta: Paradigma, 2013); Yudi Latif, "The Religiosity, Nationality, and Sociality of Pancasila: Toward Pancasila through Soekarno's Way"; Yudi Latif, *Negara Paripurna: Historisitas, Rasionalitas, Dan Aktualitas Pancasila*.

Fiqh siyasah (Islamic constitutional law) recognizes several mechanisms for selecting political leaders. Al-Mawardi maintains that a leader may be appointed either through election by *ahl al-ḥall wa al-'aqd* (representative institutions)—a representative body possessing the authority to deliberate on public affairs—or through nomination by a previous ruler, provided that the appointment serves the public interest and receives community acceptance. These mechanisms emphasize *shūrā* (consultative deliberation), representation, and political legitimacy rather than direct popular election.²⁰

Ibn Taymiyyah later developed the concept of *ahl al-shawkah* (the people of power), referring to influential members of society whose authority and public support determine the legitimacy of political leadership. In *Minhāj al-Sunnah al-Nabawīyyah*, he argues that the legitimacy of Abū Bakr and 'Umar ibn al-Khaṭṭāb was derived from the support of these influential representatives and subsequently affirmed by the broader Muslim community. Accordingly, political authority rests on representative consensus rather than direct electoral participation.²¹

The concept of *ahl al-shawkah* provides a relevant normative perspective for evaluating Indonesia's regional election system. Its emphasis on consultation, representation, and collective wisdom

²⁰ Abū al-Hasan Al-Māwardī, *Al-Aḥkām Al-Sulṭāniyyah Wa Al-Wilāyāt Al-Dīniyyah* (Cairo: Dār al-Ḥadīth, 2006).

²¹ Taqī al-Dīn Ibn Taymiyyah, *Minhāj Al-Sunnah Al-Nabawīyyah*, ed. Muḥammad Rashād Sālīm (Riyāḍ: Jāmi'at al-Imām Muḥammad ibn Sa'ūd al-Islāmiyyah, 1986); Mahmuddīn Mahmuddīn, "PEMIKIRAN POLITIK IBNU TAIMIYAH," *Tahdis: Jurnal Kajian Ilmu Al-Hadis* 6, no. 2 (2015): 63–73, <https://doi.org/https://doi.org/10.24252/tahdis.v6i2.7175>.

suggests that electing regional heads through representative institutions such as the DPRD is more consistent with the principles of Islamic constitutional law than direct regional elections.

2) Dynamics of Regional Head Elections in Indonesia

Since the introduction of direct regional elections in 2005, Indonesia has undergone a significant transformation in local democratic governance to strengthen democratic participation, political accountability, and regional autonomy. Despite these objectives, nearly two decades of implementation have revealed persistent structural challenges. Empirical studies show that direct regional elections have substantially increased electoral costs for both the state and candidates, thereby creating incentives for transactional politics, vote buying, clientelism, political patronage, and corruption. Moreover, electoral competition has frequently contributed to political polarization, identity-based mobilization, and local electoral conflicts, while improvements in procedural democracy have not consistently translated into stronger substantive democratic governance. These conditions have generated continuing debate over the effectiveness of the current regional election system and provide a compelling rationale for re-evaluating its institutional design through the normative perspectives of Pancasila democracy and Islamic constitutional law.²²

²² Aspinall and Sukmajati, *Electoral Dynamics in Indonesia: Money Politics, Patronage and Clientelism at the Grassroots*; Aspinall et al., "VOTE BUYING IN INDONESIA :

The challenges of implementing direct regional elections cannot be understood in isolation from the historical evolution of Indonesia's regional electoral system. Since independence, the mechanism for selecting regional heads has undergone several institutional changes, reflecting shifts in constitutional design, political regimes, and conceptions of democracy. The transition from central government appointment to indirect elections through the Regional People's Representative Council (DPRD), and then to direct popular elections, shows that Indonesia has adopted different models of democratic representation in response to changing political and constitutional contexts. Consequently, examining the evolution of regional head election mechanisms provides an essential foundation for understanding the current system's strengths and limitations. Table 1 summarizes the historical development of regional head election mechanisms in Indonesia from the early independence period to the present.

Period	Legal Basis		Election Mechanism		Characteristics
Parliamentary Democracy (1945–1959)	Law 22/1948;	No.	Appointment by central government and later election by DPRD		Limited regional autonomy; representative mechanism
Guided Democracy (1959–1967)	Presidential Decree 6/1959; Law No. 18/1965	No.	Appointment by the President/Minister from DPRD nominees		Strong centralization of executive power

CANDIDATE STRATEGIES , MARKET LOGIC AND EFFECTIVENESS”; Aspinall and Mietzner, “Southeast Asia’s Troubling Elections: Nondemocratic Pluralism in Indonesia”; Ehito Kimura and Iqra Anugrah, “Indonesia in 2023: Between Democracy and Dynasty,” *Asian Survey* 64, no. 2 (2024), <https://doi.org/https://doi.org/10.1525/as.2024.64.2.267>.

Period		Legal Basis		Election Mechanism	Characteristics
New Order	(1967–1998)	Law 5/1974	No.	DPRD nomination; appointment by central government	Centralized control and limited local democracy
First Reform Era		Law 22/1999	No.	Election by DPRD	Decentralization and representative democracy
Second Era	Reform (2005–present)	Law 32/2004; Law 1/2015	No.	Direct election by the people	Direct democracy, high electoral competition, and increasing electoral costs

Table 1 demonstrates that the mechanism for selecting regional heads in Indonesia has never been static but has evolved in response to changing constitutional frameworks and political regimes. The transition from centralized appointments to representative elections through the DPRD and, subsequently, to direct popular elections reflects an ongoing search for an electoral system that balances democratic participation, political accountability, and effective governance. This historical evolution also shows that direct regional elections are not the only constitutionally recognized model for selecting regional leader. Since Article 18 (4) of the 1945 Constitution merely requires that governors, regents, and mayors be elected "democratically," both representative and direct electoral mechanisms remain constitutionally permissible. Consequently, the current system of direct regional elections should be understood as one institutional choice among several democratic alternatives, thereby justifying a normative

evaluation of its compatibility with the principles of Pancasila democracy and Islamic constitutional law.²³

3) Direct Election of Regional Heads in the Perspective of Pancasila Democracy

Direct regional head elections are inconsistent with the democratic values of Pancasila—first, the value of deliberation. Direct regional head elections also conflict with values of deliberation and consensus. Direct regional head elections also conflict with the values of representation and the solemnity of wisdom.

Pancasila constitutes the *philosophische grondslag* (philosophical foundation) and *staats fundamental norm* (fundamental norm of the state) of the Indonesian state, as embodied in the Preamble to the 1945 Constitution, which occupies the highest position in Indonesia's constitutional order. Consequently, Pancasila serves as *sumber dari segala sumber hukum* (the ultimate source of constitutional values and all sources of law), providing the normative foundation for the formation, interpretation, and development of national legislation. In a narrow sense, Pancasila refers to the five principles explicitly formulated in the fourth paragraph of the Preamble. In contrast, in a broader constitutional sense, it encompasses the entire Preamble, which expresses the philosophical objectives and constitutional identity of

²³ Aspinall and Mietzner, "Southeast Asia's Troubling Elections: Nondemocratic Pluralism in Indonesia"; Michael Buehler, *The Politics of Shari'a Law: Islamist Activists and the State in Democratizing Indonesia* (Cambridge: Cambridge University Press, 2016); Tim Lindsey, *Indonesia: Law and Society*, 3rd ed. (Sydney: Federation Press, 2018); Butt, *The Constitution of Indonesia: A Contextual Analysis*.

the Republic of Indonesia. Accordingly, the constitutionality of any legal or political institution, including the regional election system, should be assessed in light of the fundamental values embodied in Pancasila.²⁴

Muhammad Yamin argued that Pancasila Democracy is founded upon the principles of *musyawarah* (deliberation), *mufakat* (consensus), *perwakilan* (representation), and *hikmat kebijaksanaan* (wisdom), which distinguish Indonesia's constitutional democracy from a purely majoritarian model. Among these principles, representation is central, reflecting Indonesia's longstanding tradition of collective decision-making through representative institutions rooted in customary governance. Accordingly, democratic legitimacy is determined not only by direct electoral participation but also by deliberative processes through representative institutions that pursue the common good. From this perspective, implementing direct regional elections raises important normative concerns. The persistence of money politics, clientelism, and transactional electoral practices indicates that direct elections have increasingly emphasized electoral competition rather than deliberative representation, thereby departing from the representative ideals embodied in Pancasila democracy.²⁵

²⁴ Jimly Asshiddiqie, *Konstitusi Dan Konstitusionalisme Indonesia* (Jakarta: Sinar Grafika, 2019); Kaelan, *Negara Pancasila*; Kaelan Kaelan, *Pendidikan Pancasila* (Yogyakarta: Paradigma, 2016); Yudi Latif, "The Religiosity, Nationality, and Sociality of Pancasila: Toward Pancasila through Soekarno's Way."

²⁵ Muhammad Yamin, *Naskah Persiapan Undang-Undang Dasar 1945* (Jakarta: Sekretariat Negara RI, 1995); Yudi Latif, *Negara Paripurna: Historisitas, Rasionalitas, Dan Aktualitas Pancasila*; Yudi Latif, "The Religiosity, Nationality, and Sociality of Pancasila:

Viewed from the perspective of Pancasila Democracy, the current model of direct regional elections raises significant constitutional concerns. Muhammad Yamin identified *musyawarah* (deliberation), *mufakat* (consensus), *perwakilan* (representation), and *hikmat kebijaksanaan* (wisdom) as the defining characteristics of Indonesia's democratic system. Likewise, Soekarno conceived democracy as a representative, deliberative process aimed at achieving the common good rather than merely aggregating majority preferences. In contrast, direct regional elections prioritize electoral competition and majority voting, while empirical evidence demonstrates persistent money politics, clientelism, and escalating campaign costs. These conditions weaken the representative function of democratic institutions and limit electoral competition to candidates with substantial political and financial resources, thereby undermining the principles of equality and deliberative representation embodied in Pancasila democracy.²⁶

The principle of deliberation occupies a central position in Pancasila democracy. Yamin associated *musyawarah* with the Qur'anic principle of *shūrā* (Q.S. al-Shūrā [42]:38). At the same time, Indonesian constitutional thought recognizes deliberation and consensus as enduring traditions of governance that seek decisions through collective wisdom rather than numerical majority alone. From this normative

Toward Pancasila through Soekarno's Way"; Asshiddiqie, *Konstitusi Dan Konstitusionalisme Indonesia*; Aspinall and Sukmajati, *Electoral Dynamics in Indonesia: Money Politics, Patronage and Clientelism at the Grassroots*.

²⁶ Sukarno, *Lahirnya Pancasila*, ed. Badan Penerbit Pusat (Jakarta, 1947); Muhammad Yamin, *Naskah Persiapan Undang-Undang Dasar 1945*.

perspective, electing regional heads through representative institutions such as the DPRD more closely reflects the constitutional values of deliberation, representation, and wisdom. Moreover, given the substantial fiscal burden of direct regional elections, reallocating public resources to education and social welfare would better align with Pancasila's commitment to social justice and the realization of public welfare.²⁷

Based on the foregoing analysis, this study argues that the current institutional design of direct regional elections is difficult to reconcile with the principles of *musyawarah* (deliberation), *perwakilan* (representation), *hikmat kebijaksanaan* (wisdom), and *keadilan sosial* (social justice) that constitute the normative core of Pancasila democracy. Although direct elections expand political participation, their competitive electoral design has increasingly encouraged transactional politics and weakened the deliberative and representative character envisioned by the founders of the Indonesian state.

4) Direct Regional Head Election Perspective of *Fiqh Siyāsah* (Islamic Constitutional Law)

Fiqh siyāsah (Islamic constitutional law) conceives the selection of political leaders as a representative process conducted through institutions such as *ahl al-ḥall wa al-'aql* (representative

²⁷ Muhammad Yamin, *Naskah Persiapan Undang-Undang Dasar 1945*; Yudi Latif, "The Religiosity, Nationality, and Sociality of Pancasila: Toward Pancasila through Soekarno's Way"; Yudi Latif, *Negara Paripurna: Historisitas, Rasionalitas, Dan Aktualitas Pancasila*.

institutions) and *ahl al-shawkah* (the people of power), rather than through direct popular elections. Al-Māwardī explains that members of *ahl al-ḥall wa al-'aqd* must possess justice (*'adālah*), adequate knowledge to assess candidates' qualifications, and wisdom in determining the person most capable of safeguarding *maṣlaḥah* (public interest). Likewise, Ibn Taymiyyah emphasizes that political authority should be established through the support and consultation of individuals who possess social legitimacy and influence within the community. These principles indicate that leadership selection in Islamic constitutional law is fundamentally representative and deliberative, aiming to ensure that public office is entrusted to individuals with the greatest competence and integrity.²⁸

Viewed from this perspective, the institutional design of Indonesia's direct regional elections differs from the classical model of leadership selection recognized in Islamic constitutional law. Direct elections transfer the authority to choose leaders to the electorate as a whole. In contrast, *fiqh siyāsah* assigns this responsibility to qualified representative bodies capable of exercising informed and deliberative judgment. Consequently, this study argues that the current model of direct regional elections is difficult to reconcile with the classical principles of *ahl al-ḥall wa al-'aqd* and *ahl al-shawkah*, which prioritize representation, *shūrā* (consultative deliberation), and

²⁸ Taymiyyah, *Minhāj Al-Sunnah Al-Nabawiyyah*; Mahmuddin, "PEMIKIRAN POLITIK IBNU TAIMIYAH"; Al-Māwardī, *Al-Aḥkām Al-Sulṭāniyyah Wa Al-Wilāyāt Al-Dīniyyah*.

the protection of *maṣlaḥah* (public welfare) in the selection of political leaders.²⁹

The representative model of leadership selection has deep roots in classical Islamic constitutional practice. The appointment of Caliph Abū Bakr at Saqīfah Banī Sā'idah and the establishment of the *Ahl al-Shūrā* (people of consultation) by Caliph 'Umar ibn al-Khaṭṭāb to select his successor illustrate that political authority was conferred through deliberation among qualified representatives rather than by direct popular election. These historical precedents show that the exercise of political sovereignty in early Islamic governance was institutionalized through representative bodies entrusted with identifying the most competent leader in accordance with the principles of *shūrā* and *maṣlaḥah*. Consequently, classical Islamic constitutional practice provides a normative foundation for representative, rather than direct, mechanisms for selecting political leadership.³⁰

These historical precedents not only show the existence of representative institutions in early Islam but also reinforce the normative principle that political legitimacy is achieved through deliberation by qualified representatives. This principle provides the analytical basis for comparing Indonesia's representative model of regional head elections through the DPRD with the concepts of *ahl al-ḥall wa*

²⁹ Anum Gul and Esha Fiaz, "Democracy Spirit in Islamic Thought: Insights from Classical and Contemporary Thinkers," *Al-Aijaz Research Journal of Islamic Studies & Humanities* 8, no. 2 (2024): 46–56.

³⁰ Gul and Fiaz; Muhammad Iqbal, *Fiqh Siyasah: Kontekstualisasi Doktrin Politik Islam* (Jakarta: Prenadamedia Grup, 2016).

al-'aqd and *ahl al-shawkah* in Islamic constitutional law.

The principle of *shūrā* occupies a central position in Islamic constitutional law and constitutes one of the fundamental principles of political decision-making in Islam. The Qur'an explicitly commands the Prophet Muhammad to consult with the community in public affairs (Q.S. Āl 'Imrān [3]:159) and further characterizes believers as those whose collective affairs are conducted through mutual consultation (Q.S. al-Shūrā [42]:38). These verses establish deliberation not merely as an ethical virtue but as a constitutional principle governing public affairs, emphasizing collective decision-making, accountability, and the pursuit of the public interest. Accordingly, classical Muslim jurists developed the doctrines of *ahl al-ḥall wa al-'aqd* and *ahl al-shawkah* as institutional manifestations of the Qur'anic principle of *shūrā*, whereby political authority is exercised through consultation among qualified representatives rather than through unrestricted direct participation.³¹

From the perspective of Islamic constitutional law, the institutional design of direct regional elections differs from the representative model of leadership selection established through the principles of *shūrā*. Classical jurists maintain that the appointment of political leaders should be undertaken by *ahl al-ḥall wa al-'aqd* or *ahl al-shawkah*, whose members possess the

³¹ Al-Māwardī, *Al-Aḥkām Al-Sulṭāniyyah Wa Al-Wilāyāt Al-Dīniyyah*; Taymiyyah, *Minhāj Al-Sunnah Al-Nabawiyyah*; Iqbal, *Fiqh Siyasah: Kontekstualisasi Doktrin Politik Islam*; Gul and Fiaz, "Democracy Spirit in Islamic Thought: Insights from Classical and Contemporary Thinkers."

essential qualifications of *'adālah* (justice), adequate knowledge to evaluate candidates, and wisdom in determining the individual most capable of safeguarding *maṣlahah* (public interest). Because these qualifications cannot reasonably be presumed of the electorate as a whole, the authority to select leaders is entrusted to qualified representative bodies rather than to direct popular voting. Consequently, the current model of direct regional elections is difficult to reconcile with the deliberative principles of Islamic constitutional law. This concern is further reinforced by the persistence of money politics and transactional electoral practices, which undermine the ethical values of *shūrā* and are inconsistent with the objective of Islamic governance to realize justice and public welfare.³²

Based on the foregoing analysis, this study concludes that the current institutional design of direct regional elections departs from the classical principles of Islamic constitutional law because it replaces *shūrā* (consultative deliberation) by qualified representatives with unrestricted direct electoral competition, thereby making it difficult to achieve the objectives of justice and *maṣlahah* (public welfare) that underlie Islamic governance.

The Qur'anic principles of *shūrā* (Q.S. Āl 'Imrān [3]:159; Q.S. al-Shūrā [42]:38) emphasize that public affairs should be administered through consultation among qualified representatives. From the perspective

³² Al-Ghazālī, "Al-Muṣtaṣfa," n.d.; Taymiyyah, *Minhāj Al-Sunnah Al-Nabawīyyah*; Al-Māwardī, *Al-Aḥkām Al-Sulṭāniyyah Wa Al-Wilāyāt Al-Dīniyyah*; Iqbal, *Fiqh Siyasaḥ: Kontekstualisasi Doktrin Politik Islam*.

of Islamic constitutional law, this principle is institutionally reflected in *ahl al-ḥall wa al-'aqd* and *ahl al-shawkah*, whose deliberative function provides the normative basis for representative mechanisms for selecting leaders. Accordingly, electing regional heads through the Regional People's Representative Council (DPRD) more closely reflects the representative and deliberative values recognized in classical *fiqh siyāsah* than the current system of direct regional elections.³³

Although representative elections are not entirely immune from corruption or political bargaining, Islamic legal reasoning evaluates institutional alternatives by considering their relative capacity to protect *maṣlaḥah* (public interest) and minimize *mafsadah* (harm). In this context, the legal maxim *akḥaff al-ḍararayn* (choosing the lesser of two harms) provides a relevant normative framework. Compared with direct regional elections, which have been accompanied by widespread money politics, high electoral costs, and transactional political competition, elections conducted through the DPRD may better realize the objectives of *shūrā*, accountability, and public welfare. From this perspective, representative regional head elections are more consistent with the principles of Islamic constitutional law.³⁴

³³ Iqbal, *Fiqh Siyāsah: Kontekstualisasi Doktrin Politik Islam*; Gul and Fiaz, "Democracy Spirit in Islamic Thought: Insights from Classical and Contemporary Thinkers"; Al-Māwardī, *Al-Aḥkām Al-Sulṭāniyyah Wa Al-Wilāyāt Al-Dīniyyah*.

³⁴ Jalālul al-Dīn Al-Suyūṭī, *Al-Ashbāh Wa Al-Nazā'ir* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1990); Ibnu al-Nujaim Al-Miṣriy, *Al-Ashbāh Wa Al-Nazā'ir* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1999); Muhammad Musthofa al Zuhaili, *Al Qawaid Al Fiqhiyyah Wa Tathbiqatiha Fi Al Madzahib Al Arba'ah* (Damsyiq: Dar al Fikr, 2006).

D. Conclusion

This study demonstrates that the current system of direct regional head elections in Indonesia is difficult to reconcile with the normative principles of both Pancasila Democracy and Islamic Constitutional Law. From the perspective of Pancasila Democracy, direct regional elections have not fully reflected the constitutional values of representation, deliberation, consensus, wisdom, and social justice embodied in Pancasila's Fourth Principle. Empirical evidence further indicates that implementing direct elections has been accompanied by escalating electoral costs, money politics, clientelism, electoral conflict, and corruption involving elected regional leaders. Likewise, from the perspective of *fiqh siyāsah* (Islamic constitutional law), the current electoral model departs from the principles of *shūrā* (consultative deliberation), *ahl al-ḥall wa al-'aqd* (representative institutions), and *ahl al-shawkah* (the people of power), which emphasize deliberation by qualified representative institutions in selecting political leaders to realize justice and *maṣlaḥah* (public welfare).

This study contributes to the literature by integrating Pancasila democracy and Islamic constitutional law into a unified normative framework for evaluating Indonesia's regional election system. The analysis shows that both traditions converge in emphasizing representative deliberation as the constitutional basis for selecting political leaders. Accordingly, this article argues that electing regional heads through the Regional People's Representative Council (DPRD) is normatively more consistent with the constitutional values of Pancasila and the principles of Islamic constitutional law than the current model of direct regional elections. These findings provide a normative foundation for future reforms of Indonesia's regional

electoral system while reaffirming that democratic institutions should not only ensure popular participation but also uphold deliberation, accountability, public welfare, and the constitutional ideals of the Indonesian state.

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