

Constitutional Legitimacy of Regional Head Elections by Regional People's Representative Councils (DPRD)

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Abstract

The mechanism for electing regional heads in Indonesia has long been the subject of constitutional debate, particularly regarding whether such elections must necessarily be conducted directly by the people or whether elections conducted through representative institutions such as Regional People's Representative Councils (DPRD) may also satisfy constitutional requirements. Article 18 paragraph (4) of the 1945 Constitution states that governors, regents, and mayors are elected democratically, yet the provision does not explicitly determine the electoral mechanism to be used. This ambiguity has generated various interpretations among scholars and policymakers regarding the constitutional meaning of democratic elections at the regional level. This article examines the constitutional legitimacy of regional head elections conducted by DPRD within the framework of representative democracy. Using normative legal research methods and constitutional interpretation approaches, this study analyzes textual, systematic, and teleological interpretations of the relevant constitutional provisions. The study also evaluates democratic legitimacy through theoretical perspectives on representation, accountability, and democratic

governance. The findings indicate that elections conducted by DPRD may still be considered constitutionally legitimate because DPRD members derive their authority from democratic elections and function as representatives of the people. However, such mechanisms also raise several concerns related to political participation, elite domination, and institutional accountability in local governance. Therefore, maintaining democratic legitimacy requires strong institutional safeguards, transparency mechanisms, and effective public oversight to ensure that representative electoral processes remain accountable to citizens. This article contributes to the existing scholarship by offering a constitutional reinterpretation that situates indirect regional head elections within global constitutional discourse while grounding the analysis in the philosophical framework of Pancasila democracy. Furthermore, it proposes a normative model of institutional safeguards aimed at reconciling representative electoral mechanisms with contemporary demands for democratic accountability and public participation.

Keywords *Constitutional legitimacy, regional elections, representative democracy, DPRD, local governance*

A. Introduction

Democratic governance fundamentally requires institutional mechanisms that ensure political authority is derived from the people. The principle of popular sovereignty constitutes of the most essential foundations of modern constitutional democracies¹. Within democratic systems, governmental authority is considered legitimate only when it originates from the consent of the governed and is exercised through institutions that reflect the will of citizens². Consequently, democratic governance requires institutional arrangements that not only facilitate participation but also maintain accountability and responsiveness to public interests.

In constitutional democracies, the concept of democratic legitimacy is closely related to the way political leaders obtain their authority. Elections play a central role in ensuring that governmental power reflects the preferences of the electorate. Through electoral mechanisms, citizens are able to express their political choices and determine who will exercise political authority within governmental

¹ Gerring, John, Strom C. Thacker, and Rodrigo Alfaro. "Democracy and Human Development." *Journal of Politics* 74, no. 1 (2012): 1–17. <https://doi.org/10.1017/s0022381611001113>

² Dahl, Robert A. *On Democracy*. New Haven: Yale University Press, 1998.

institutions³. Elections therefore function as a primary mechanism for translating popular sovereignty into institutional political power.

Indonesia's constitutional development following the political reform movement of 1998 illustrates the country's commitment to strengthening democratic governance. The reform era marked a significant transition from authoritarian governance toward a democratic constitutional system that emphasizes popular participation, institutional accountability, and decentralization of political authority⁴. As part of these reforms, Indonesia implemented substantial changes to its constitutional structure through amendments to the 1945 Constitution, which aimed to strengthen democratic institutions and promote a more balanced distribution of political power.

One of the most significant institutional transformations introduced during the reform era concerned the democratization of regional governance⁵. Prior to the reform period, regional heads were generally selected through political processes that were heavily influenced by central government authority⁶. In many cases, regional leaders were effectively determined through negotiations among political elites and central government actors rather than through transparent democratic mechanisms involving public participation⁷. Such arrangements often limited democratic accountability and weakened the responsiveness of regional governments to the interests of local communities⁸.

In response to these challenges, the reform movement emphasized the importance of decentralization and democratic participation in regional governance. Decentralization was seen as an essential component of democratic consolidation because it allows political authority to be distributed across different levels of government and enables citizens to participate more directly in local

³ Sartori, Giovanni. *Democratic Theory*. 2nd ed. New York: Praeger, 1965.

⁴ Asshiddiqie, Jimly. *Pengantar Ilmu Hukum Tata Negara*. Jakarta: Rajawali Pers, 2010.

⁵ Schmitter, Philippe C., and Terry Lynn Karl. "What Democracy Is... and Is Not." *Journal of Democracy* 2, no. 3 (1991): 75–88. <https://doi.org/10.1353/jod.1991.0033>

⁶ Dowding, Keith, and Patrick Dumont, eds. *The Selection of Ministers in Europe: Hiring and Firing*. 1st ed. London: Routledge, 2008. <https://doi.org/10.4324/9780203886908>

⁷ Rosida, I. A. "Local Government Legal Politics from Old Order, New Order, to Post-Reformation." *The Journal of Socio-Legal and Islamic Law* 1, no. 2 (2023): 1–8. <https://doi.org/10.30651/jssl.v1i2.20801>

⁸ Gerring, John, Strom C. Thacker, and Rodrigo Alfaro. "Democracy and Human Development." *Journal of Politics* 74, no. 1 (2012): 1–17. <https://doi.org/10.1017/s0022381611001113>

decision-making processes⁹. Consequently, reforms in the regional governance system were designed to ensure that regional leaders obtained political legitimacy through democratic mechanisms.

One of the most important policy developments during this period was the introduction of direct elections for regional heads. Direct elections were intended to strengthen democratic legitimacy by allowing citizens to vote directly for governors, regents, and mayors. Through this mechanism, regional leaders would obtain a direct political mandate from the electorate, thereby increasing accountability and responsiveness to public interests¹⁰. Direct elections were also expected to enhance political participation and empower local communities to play a more active role in determining their political leadership.

Despite these reforms, debates regarding the constitutional meaning of democratic elections for regional leaders have continued to emerge within academic and political discourse. The central issue concerns the interpretation of Article 18 paragraph (4) of the 1945 Constitution, which states governors, regents, and mayors are elected democratically. While the provision establishes the normative principle that regional leaders must be elected in a democratic manner, it does not explicitly define the institutional mechanism through which such elections must occur¹¹.

The absence of explicit constitutional guidance regarding electoral mechanisms has created interpretative debates among constitutional scholars and policymakers. Some scholars argue that the phrase “elected democratically” necessarily implies direct elections conducted by citizens through popular voting. According to this perspective, democratic legitimacy is best achieved when citizens participate directly in selecting their political leaders. Direct elections are therefore considered the most authentic expression of popular sovereignty because they allow voters to exercise political choice without intermediary institutions¹².

However, other scholars contend that democratic elections may also be conducted through representative mechanisms within legislative institutions. In representative democracies, citizens delegate political

⁹ Budiardjo, Miriam. *Dasar-Dasar Ilmu Politik*. Jakarta: Gramedia Pustaka Utama, 2020.

¹⁰ Zakaria, Fareed. “The Rise of Illiberal Democracy.” *Foreign Affairs* 76, no. 6 (1997): 22–43. <https://doi.org/10.2307/20048274>

¹¹ Constitution of the Republic of Indonesia 1945, Article 18 paragraph (4).

¹² Lijphart, Arend. “Constitutional Choices for New Democracies.” *Journal of Democracy* 2, no. 1 (1991): 72–84. <https://doi.org/10.1353/jod.1991.0011>

authority to elected representatives who then perform governance functions on behalf of the public. Under this perspective, election of regional heads by Regional People's Representative Councils (DPRD) may also satisfy democratic requirements because DPRD members themselves are elected through democratic elections and represent the political preferences of voters¹³.

This debate reflects a broader theoretical discussion within democratic theory concerning the relationship between direct democracy and representative democracy. While direct participation is often viewed as the most immediate expression of popular sovereignty, representative institutions play a crucial role in modern democratic systems by facilitating governance in large and complex societies¹⁴. In such contexts, representation allows citizens to delegate decision-making authority to elected officials who deliberate and determine public policy on behalf of the electorate.

In the context of global constitutional developments, contemporary democratic systems have increasingly shown a tendency to expand mechanisms of direct democracy, particularly at both national and subnational levels. Instruments such as direct elections, referendums, and popular initiatives are often promoted as means to strengthen political participation, enhance governmental accountability, and reduce the distance between citizens and political decision-making processes^{15 16}. Empirical studies indicate that many countries have incorporated direct democratic mechanisms as complementary tools within representative systems, reflecting a broader normative shift toward more participatory forms of governance¹⁷. This global trend suggests that democratic legitimacy is increasingly associated with the

¹³ Manin, Bernard. "Elections and Representation." In *Democracy, Accountability, and Representation*, edited by Adam Przeworski, Susan Stokes, and Bernard Manin. Cambridge: Cambridge University Press, 1999.

¹⁴ Pitkin, Hanna Fenichel. *The Concept of Representation*. Berkeley: University of California Press, 1967.

¹⁵ But, J. J., D. K. Jongkind, and W. J. M. Voermans. "Direct Democracy in the Constitution: Good or Bad for Democracy?" *The Theory and Practice of Legislation* 11, no. 1 (2023): 52–82. <https://doi.org/10.1080/20508840.2022.2131150>

¹⁶ Şimşek, C., J. Limão, I. Campos, D. Fuchs, and B. Schlipphak. "Recent Insights on Direct Democracy: Arguments, Drivers, Effects and Conditions." *Open Research Europe* 5 (2025): 171. <https://doi.org/10.12688/openreseurope.20444.1>.

¹⁷ Hornig, E.-C., and C. Frommelt. "The System Functions of Direct Democracy: A Ranking of 103 Countries in the World." *Frontiers in Political Science* 5 (2024): 1146307. <https://doi.org/10.3389/fpos.2023.1146307>

direct involvement of citizens in political decision-making, rather than reliance solely on representative institutions.

Nevertheless, the global expansion of direct democracy does not necessarily eliminate the relevance of representative electoral mechanisms, particularly in complex political systems. In certain contexts, indirect electoral processes are maintained to ensure deliberative decision-making, institutional stability, and the aggregation of political preferences through representative bodies. Comparative studies also demonstrate political elites and citizens may hold different expectations regarding the use of direct democratic instruments, indicating that their effectiveness depends heavily on institutional design and socio-political context¹⁸. Within this framework, Indonesia's constitutional formulation requiring that regional heads be elected democratically without prescribing a specific mechanism may be understood as a flexible model accommodating direct and representative forms of democracy. This raises important questions regarding how indirect electoral mechanisms, such as elections conducted by DPRD, can be theoretically justified and sustained within a global trend that increasingly favors direct democratic participation¹⁹.

Political representation has long been recognized as an essential component of democratic governance. Representative institutions enable governments to function effectively while still maintaining a connection to the will of the people. Through elections, citizens choose representatives who are expected to articulate and defend public interests within legislative institutions²⁰. These representatives subsequently exercise political authority within constitutional boundaries and remain accountable to voters through periodic elections²¹.

Within the Indonesian political system, the Regional People's Representative Council (DPRD) functions as the primary representative institution at the regional level. DPRD members are elected through democratic elections and therefore derive their political legitimacy

¹⁸ Gherghina, S., and N. Silagadze. "Calling Referendums on Domestic Policies: How Political Elites and Citizens Differ." *Comparative European Politics* 19 (2021): 642–661. <https://doi.org/10.1057/s41295-021-00252-7>

¹⁹ Testriono, R., Istania, R., and Darmastuti, S., eds. *Decentralization, Democracy and Local Politics in Indonesia*. 1st ed. London: Routledge, 2026. <https://doi.org/10.4324/9781003729204>

²⁰ Mansbridge, Jane. "Rethinking Representation." *American Political Science Review* 97, no. 4, 2003.

²¹ Schmitter, Philippe C., and Terry Lynn Karl. "What Democracy Is... and Is Not." *Journal of Democracy* 2, no. 3 (1991): 75–88. <https://doi.org/10.1353/jod.1991.0033>

directly from citizens. As representatives of the people, DPRD members possess the authority to perform legislative, oversight, and political functions within regional governance structures²². This institutional role raises important questions regarding whether DPRD may legitimately exercise the authority to elect regional leaders as part of its representative mandate.

Supporters of representative electoral mechanisms argue that election by DPRD may enhance deliberative decision-making within leadership selection processes. Legislative institutions provide a forum where political actors can deliberate, evaluate candidates, and consider policy programs before selecting regional leaders²³. Such deliberative processes may allow for more careful evaluation of leadership qualifications compared with highly competitive electoral campaigns dominated by mass political mobilization.

Nevertheless, critics of indirect elections emphasize potential democratic risks associated with representative electoral mechanisms. One major concern relates to the possibility of elite domination within political decision-making processes²⁴. When leadership selection occurs within legislative institutions, political parties and elite actors may exercise disproportionate influence over electoral outcomes²⁵. Without adequate institutional safeguards, such mechanisms may create opportunities for political bargaining, transactional politics, or oligarchic control over regional leadership selection²⁶.

Another concern relates to the potential reduction of public participation in democratic governance. Direct elections provide opportunities for citizens to actively participate in determining political leadership. Removing such mechanisms may weaken political engagement among citizens and reduce the sense of political ownership

²² Warburton, Eve, and Edward Aspinall. "Explaining Indonesia's Democratic Regression: Structure, Agency and Popular Opinion." *Contemporary Southeast Asia* 41, no. 2 (2019): 255–285. <https://www.jstor.org/stable/26798854>

²³ Sartori, Giovanni. *Democratic Theory*. 2nd ed. New York: Praeger, 1965.

²⁴ Gerring, John, Strom C. Thacker, and Rodrigo Alfaro. "Democracy and Human Development." *Journal of Politics* 74, no. 1 (2012): 1–17. <https://doi.org/10.1017/s0022381611001113>

²⁵ Hoessein, Zainal Arifin. "Pemilu Kepala Daerah dalam Transisi Demokrasi." *Jurnal Konstitusi* 7, no. 6 (2016): 1–24. <https://doi.org/10.31078/jk761>

²⁶ Mietzner, Marcus. "Indonesia's 2014 Elections: How Jokowi Won and Democracy Survived." *Journal of Democracy* 25, no. 4 (2014): 111–125. <https://doi.org/10.1353/jod.2014.0073>

within democratic institutions²⁷. Political participation plays an important role in strengthening democratic legitimacy because citizens who actively participate in political processes are more likely to develop trust in democratic institutions.

Given these competing perspectives, it becomes necessary to examine the constitutional legitimacy of regional head elections conducted by DPRD through careful analysis of constitutional provisions and democratic theory. Constitutional interpretation must consider not only the textual meaning of legal provisions but also their broader institutional context and normative objectives within the democratic system²⁸.

This article therefore aims to analyze the constitutional legitimacy of regional head elections conducted by DPRD within Indonesia's constitutional framework. Specifically, the study seeks to address three main research questions. First, how should Article 18 paragraph (4) of the 1945 Constitution be interpreted with regard to the mechanism for electing regional heads? Second, can elections conducted by DPRD be considered democratically legitimate within the framework of representative democracy? Third, what democratic risks and institutional challenges may arise from such electoral mechanisms?

This research employs normative legal research methods focusing on the analysis of constitutional provisions, statutory regulations, judicial decisions, and academic doctrines. The study uses several approaches to constitutional interpretation, including textual interpretation, systematic interpretation, and teleological interpretation.

In addition, relevant literature on democratic theory, political representation, and constitutional law is examined to evaluate the legitimacy of representative electoral mechanisms in the context of regional governance²⁹. Through this analytical framework, the article seeks to contribute to ongoing scholarly discussions concerning democratic institutional design in Indonesia's decentralized political system. By examining the constitutional legitimacy of regional head elections conducted by DPRD, this study aims to provide a deeper understanding of how democratic principles may be implemented within different institutional arrangements of local governance.

²⁷ Norris, Pippa. "Electoral Engineering: Voting Rules and Political Behavior." In *Electoral Engineering: Voting Rules and Political Behavior*, 265–304. Cambridge: Cambridge University Press, 2004.

²⁸ Barak, Aharon. *The Judge in a Democracy*. Princeton: Princeton University Press, 2006.

²⁹ Marzuki, Peter Mahmud. *Penelitian Hukum*. Jakarta: Kencana, 2017.

B. Constitutional Interpretation of Article 18 Paragraph (4) of the 1945 Constitution

1. Textual Interpretation of the Constitutional Provision

The constitutional debate regarding the mechanism for electing regional heads in Indonesia primarily originates from the interpretation of Article 18 paragraph (4) of the 1945 Constitution. The provision states that governors, regents, and mayors are elected democratically. However, the constitutional text does not explicitly determine whether such elections must be conducted directly by citizens or may also occur through representative institutions such as the Regional People's Representative Council (DPRD). This ambiguity has generated various interpretations within constitutional scholarship and political practice³⁰.

Textual interpretation represents one of the primary methods used in constitutional analysis. This method focuses on the literal meaning of the constitutional text in order to determine the normative scope of a provision. When examining Article 18 paragraph (4), the key phrase that requires interpretation is the expression “elected democratically.” The constitutional provision deliberately uses general language rather than specifying a particular electoral mechanism³¹.

The absence of explicit terminology such as “direct election” suggests that the constitution does not rigidly prescribe the institutional procedure for selecting regional leaders. Instead, the provision emphasizes the democratic character of the election process. From a textual perspective, democratic elections may be interpreted broadly to include both direct electoral participation by citizens and representative mechanisms carried out through democratically elected institutions³².

In democratic political systems, the concept of democracy itself encompasses multiple institutional forms. Direct democracy allows citizens to participate directly in political decision-making, whereas representative democracy enables citizens to delegate authority to elected representatives who subsequently perform governance functions on their behalf³³. Therefore, textual interpretation alone does

³⁰ Schmitter, Philippe C., and Terry Lynn Karl. “What Democracy Is... and Is Not.” *Journal of Democracy* 2, no. 3 (1991): 75–88. <https://doi.org/10.1353/jod.1991.0033>

³¹ Asshiddiqie, Jimly. *Pengantar Ilmu Hukum Tata Negara*. Jakarta: Rajawali Pers, 2010.

³² Rosida, I. A. “Local Government Legal Politics from Old Order, New Order, to Post-Reformation.” *The Journal of Socio-Legal and Islamic Law* 1, no. 2 (2023): 1–8. <https://doi.org/10.30651/jssl.v1i2.20801>

³³ Dahl, Robert A. *On Democracy*. New Haven: Yale University Press, 1998.

not necessarily restrict the meaning of “democratic elections” to direct voting by citizens.

This interpretation indicates that constitutional legitimacy does not depend solely on whether elections are conducted directly by the public. Rather, the crucial requirement is that the electoral process reflects democratic principles such as representation, accountability, and legitimacy derived from the people.

2. *Systematic Interpretation within the Constitutional Structure*

In addition to textual interpretation, constitutional scholars frequently employ systematic interpretation to understand the meaning of constitutional provisions within the broader structure of the constitution. This approach examines how individual provisions relate to other constitutional norms and institutional arrangements.

When Article 18 paragraph (4) is analyzed within the broader constitutional framework, it becomes evident that the Indonesian constitutional system incorporates elements of representative democracy. The constitution establishes several representative institutions, including the House of Representatives (DPR) and the Regional People's Representative Council (DPRD), whose members are elected by citizens to represent public interests in legislative processes³⁴. These institutions function as intermediaries between citizens and the exercise of governmental authority. The existence of representative bodies demonstrates that the constitutional system recognizes representation as a legitimate mechanism for translating popular sovereignty into political authority.

Systematic interpretation also considers the historical context in which constitutional provisions were formulated. During the constitutional amendment process in the early 2000s, discussions concerning regional governance focused on strengthening democratic accountability and decentralization. However, the constitutional framers intentionally avoided specifying a rigid electoral mechanism for regional leadership³⁵.

Instead, the constitutional language was formulated in a flexible manner to accommodate different institutional arrangements that could still fulfill democratic requirements. Such flexibility allows legislators to design electoral mechanisms through statutory regulations while still adhering to the constitutional principle of democratic governance.

³⁴ Constitution of the Republic of Indonesia 1945, Article 19.

³⁵ Isra, Saldi. *Pergeseran Fungsi Legislasi*. Jakarta: Rajawali Pers, 2010.

3. *Teleological Interpretation and Democratic Objectives*

Teleological interpretation examines the purpose and objectives underlying constitutional provisions. From this perspective, the main objective of Article 18 paragraph (4) is to ensure that regional leaders obtain democratic legitimacy rather than being appointed through authoritarian or bureaucratic mechanisms.

Historically, regional leadership in Indonesia was often determined through centralized administrative processes during the pre-reform era. These arrangements limited public participation and weakened democratic accountability within local governance structures. The constitutional amendments therefore aimed to ensure that regional leadership would be derived from democratic processes that reflect the will of the people³⁶.

Under teleological interpretation, the phrase “elected democratically” emphasizes the normative principle of democratic legitimacy rather than the specific institutional procedure used to achieve it. As long as the electoral process ultimately derives authority from the people and maintains accountability to citizens, the democratic objective of the constitutional provision may still be satisfied³⁷. Nevertheless, the legitimacy of representative electoral mechanisms depends on the institutional safeguards that accompany them. Transparency, accountability, and public oversight are necessary to ensure that democratic principles remain protected within representative institutions³⁸.

In addition to theoretical and teleological considerations, constitutional interpretation regarding the phrase “elected democratically” has also been clarified through judicial interpretation by the Constitutional Court. In Decision Number 97/PUU-XI/2013, the Court affirmed that the constitutional requirement of democratic elections does not exclusively mandate direct elections by the people³⁹. Instead, the Court recognized that regional head elections conducted through representative institutions such as DPRD may also satisfy constitutional standards of democracy, provided that such mechanisms

³⁶ Asshiddiqie, Jimly. *Pengantar Ilmu Hukum Tata Negara*. Jakarta: Rajawali Pers, 2010.

³⁷ Pitkin, Hanna Fenichel. *The Concept of Representation*. Berkeley: University of California Press, 1967.

³⁸ Tomsa, Dirk. *Party Politics and Democratization in Indonesia: Golkar in the Post-Suharto Era*. London: Routledge, 2008.

³⁹ Mahkamah Konstitusi Republik Indonesia. 2013. *Putusan Mahkamah Konstitusi Nomor 97/PUU-XI/2013*.

remain grounded in the principles of popular sovereignty and accountability⁴⁰. This interpretation reinforces the view that the Indonesian Constitution adopts a flexible approach to democratic institutional design, allowing both direct and indirect electoral mechanisms within its constitutional framework.

From a comparative and governance perspective, this judicial stance is consistent with broader scholarly findings on local governance and representative accountability, which suggest that democratic legitimacy may emerge from institutional arrangements that combine representation, deliberation, and accountability mechanisms rather than relying solely on direct electoral participation⁴¹. Studies in comparative politics indicate that the effectiveness of democratic systems at the local level depends not only on electoral forms but also on the strength of institutional safeguards and the quality of representative institutions in maintaining responsiveness to public interests⁴².

4. Original Intent of Constitutional Framers

In addition to textual, systematic, and teleological approaches, constitutional interpretation may also be strengthened by examining the original intent of the constitutional framers during the amendment process of the 1945 Constitution. The debates surrounding the formulation of Article 18 paragraph (4) reveal the use of the phrase “elected democratically” not accidental, but reflected a deliberate choice by the drafters to maintain flexibility in determining the mechanism for selecting regional leaders⁴³. During the constitutional reform period between 1999 and 2002, discussions within the People’s Consultative Assembly (MPR) emphasized the importance of embedding democratic principles while avoiding overly rigid institutional prescriptions that could limit future legislative policy choices.

The absence of explicit terminology such as “direct election” in Article 18 paragraph (4), especially when compared to other constitutional provisions that clearly mandate direct elections, such as presidential election mechanism, indicates the framers intentionally

⁴⁰ Lijphart, Arend. 2012. *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*. New Haven: Yale University Press.

⁴¹ Dahl, Robert A. 1998. *On Democracy*. New Haven: Yale University Press.

⁴² Zgiep, M. (2019). Beyond institutions and the system: Network approach to deliberative democracy. *Cogent Social Sciences*, 5(1). <https://doi.org/10.1080/23311886.2019.1639876>

⁴³ Indrayana, Denny. “In Search for a Democratic Constitution: Indonesian Constitutional Reform 1999–2002.” *Jurnal Media Hukum* 17, no. 1 (2015). <https://doi.org/10.18196/jmh.v17i1.372>

adopted a more open-ended formulation⁴⁴. This distinction suggests that while direct elections were recognized as one possible manifestation of democratic governance, they were not considered the only constitutionally valid mechanism for selecting public officials at all levels of government.

From a historical-constitutional perspective, this choice can be understood in relation to Indonesia's broader democratic philosophy, which emphasizes deliberation and representation as integral components of governance. The formulation of "democratic elections" allows for the accommodation of both direct participation and representative decision-making, reflecting a synthesis between modern democratic practices and the deliberative values embedded in Indonesia's constitutional tradition⁴⁵. The evolution of institutional relations between representative bodies and executive authority during the reform era demonstrates that constitutional design in Indonesia has consistently sought to balance democratic participation with institutional stability and effective governance⁴⁶.

Therefore, an original intent analysis supports the interpretation that Article 18 paragraph (4) was deliberately designed as a flexible constitutional provision. Rather than mandating a single electoral mechanism only, the framers intended to allow democratic legitimacy to be realized through multiple institutional arrangements, provided that such mechanisms remain grounded in the principles of popular sovereignty, representation, and accountability aspects.

C. Representative Democracy and the Institutional Role of DPRD

1. Theoretical Foundations of Representative Democracy

Representative democracy constitutes the most widely practiced form of democracy in modern political systems. In representative

⁴⁴ Kuswanto. "Consistency of the Presidential System in Indonesia." *Supremacy Law Review (SLRev)* 2, no. 2 (2018): 170–182. <https://doi.org/10.28946/slrev.Vol2.Iss2.67>

⁴⁵ Nasoha, Ahmad Muhammad Mustain, Muhammad Keizafa Yusuf Agachi, Marshal Ruhul Muhammad, Muhammad Bima Apriyandi, and Rafi Romadoni. "Pancasila dan Penguatan Hukum Tata Negara dalam Era Demokrasi: Pancasila and Strengthening Constitutional Law in the Democratic Era." *LITERA: Jurnal Ilmiah Multidisiplin* 1, no. 2 (2024): 123–138. <https://litera-academica.com/ojs/litera/article/view/71>

⁴⁶ Arfandy, M. F., A. Ambarwati, A. N. Santoso, and Wiwin W. "The Evolution of Legislative Power Relations between the DPR and the President in the Indonesian Constitutional System." *Amsir Law Journal* 7, no. 1 (2025): 22–39. <https://doi.org/10.36746/alj.v7i1.723>

democracies, citizens elect political representatives who subsequently exercise governmental authority on behalf of the electorate. This institutional arrangement enables governance in large and complex societies where direct participation in all political decisions would be impractical⁴⁷.

Political theorists emphasize that representation functions as a mechanism for translating popular sovereignty into governmental authority. Through elections, citizens delegate decision-making power to representatives who are expected to articulate public interests within legislative institutions⁴⁸. Representatives therefore serve as intermediaries between the electorate and the exercise of state power. Within representative democracies, elections serve two primary functions⁴⁹. First, they provide legitimacy to political institutions by ensuring that representatives derive authority from the consent of the governed. Second, elections function as mechanisms of accountability, enabling citizens to evaluate the performance of political leaders and replace them if necessary⁵⁰.

This theoretical framework highlights that democratic legitimacy does not necessarily require direct participation in every political decision. Instead, legitimacy may also arise through representative institutions that operate within constitutional boundaries and remain accountable to voters⁵¹.

2. The Role of DPRD in Regional Governance

Within the Indonesian political system, the Regional People's Representative Council (DPRD) serves as the primary representative institution at the regional level. DPRD members are elected through democratic elections and therefore derive their authority directly from the electorate.

The DPRD performs several important functions within regional governance, including legislative authority, budgetary

⁴⁷ Manin, Bernard. "Elections and Representation." In *Democracy, Accountability, and Representation*, edited by Adam Przeworski, Susan Stokes, and Bernard Manin. Cambridge: Cambridge University Press, 1999.

⁴⁸ Mansbridge, Jane. "Rethinking Representation." *American Political Science Review* 97, no. 4, 2003.

⁴⁹ Slater, Dan. "Strong-State Democratization in Malaysia and Singapore." *Journal of Democracy* 23, no. 2 (April 2012): 19–33. <https://doi.org/10.1353/jod.2012.0021>

⁵⁰ Diamond, Larry. "Thinking About Hybrid Regimes." *Journal of Democracy* 13, no. 2 (2002): 21–35. <https://doi.org/10.1353/jod.2002.0025>

⁵¹ Mietzner, Marcus. "Indonesia's 2014 Elections: How Jokowi Won and Democracy Survived." *Journal of Democracy* 25, no. 4 (2014): 111–125. <https://doi.org/10.1353/jod.2014.0073>

oversight, and supervision of executive institutions. Through these functions, DPRD members are expected to represent the interests and aspirations of local communities in the formulation of regional policies⁵².

The representative character of DPRD provides the theoretical basis for arguments supporting indirect elections of regional leaders through legislative institutions. Because DPRD members are elected by citizens, their political decisions may be interpreted as indirect expressions of popular sovereignty⁵³. In this context, the election of regional heads by DPRD may be viewed as an extension of representative authority. Legislative institutions deliberate on candidate qualifications, evaluate policy programs, and ultimately determine which individuals are best suited to lead regional governments⁵⁴.

3. Democratic Risks of Indirect Electoral Mechanisms

Despite the theoretical legitimacy of representative electoral mechanisms, scholars have identified several potential risks associated with indirect elections conducted by legislative institutions. One of the most significant concerns relates to the possibility of elite domination within political decision-making processes. When electoral decisions are concentrated within legislative bodies, political parties and elite actors may exercise disproportionate influence over the selection of candidates⁵⁵. Such conditions may encourage political bargaining or transactional arrangements that prioritize elite interests rather than public welfare.

Another concern involves the reduction of public participation in democratic governance. Direct elections allow citizens to actively participate in determining political leadership and strengthen civic engagement within democratic institutions. Removing this mechanism may weaken the connection between citizens and local governments⁵⁶.

Transparency and accountability also constitute important challenges within representative electoral systems. Legislative decision-

⁵² Beetham, David. *The Legitimation of Power*. London: Palgrave Macmillan, 2013.

⁵³ Sartori, Giovanni. *Democratic Theory*. 2nd ed. New York: Praeger, 1965.

⁵⁴ Mietzner, Marcus. "Indonesia's 2014 Elections: How Jokowi Won and Democracy Survived." *Journal of Democracy* 25, no. 4 (2014): 111–125. <https://doi.org/10.1353/jod.2014.0073>

⁵⁵ Testriono, R., Istania, R., and Darmastuti, S., eds. *Decentralization, Democracy and Local Politics in Indonesia*. 1st ed. London: Routledge, 2026. <https://doi.org/10.4324/9781003729204>

⁵⁶ Norris, Pippa. *Driving Democracy: Do Power-Sharing Institutions Work?* Cambridge: Cambridge University Press, 2008.

making processes may occur through internal negotiations that are less visible to the public. Without strong institutional safeguards, such processes may reduce public trust in democratic institutions⁵⁷. Therefore, while representative electoral mechanisms may be constitutionally permissible, their democratic legitimacy depends heavily on institutional safeguards that ensure transparency, accountability, and public participation⁵⁸.

4. Comparative Perspective: Indirect Democracy in Global Practice

Comparative constitutional practices demonstrate that indirect mechanisms of leadership selection are not unique to Indonesia but form an integral part of representative democratic systems across various jurisdictions. In comparative political theory, Arend Lijphart explains that democratic systems particularly those categorized as consensus democracies often prioritize institutional representation and negotiated decision-making rather than relying exclusively on direct electoral participation. This perspective suggests that indirect electoral mechanisms may serve as legitimate expressions of popular sovereignty when they are embedded within accountable representative institutions⁵⁹.

A relevant comparative example can be found in Germany, particularly at the subnational and municipal levels, where governance structures have historically incorporated variations of indirect or semi-direct executive selection. In certain local government arrangements, models resembling the *mayor-council system* allow elected councils to play a decisive role in selecting or confirming executive leaders⁶⁰. Within these systems, representative bodies deliberate on leadership choices, assess candidates' administrative competence, and align leadership selection with policy priorities. Similar participatory and representative dynamics can also be observed in European contexts such as Latvia and

⁵⁷ Lijphart, Arend. "Constitutional Choices for New Democracies." *Journal of Democracy* 2, no. 1 (1991): 72–84. <https://doi.org/10.1353/jod.1991.0011>

⁵⁸ Diamond, Larry. "Thinking About Hybrid Regimes." *Journal of Democracy* 13, no. 2 (2002): 21–35. <https://doi.org/10.1353/jod.2002.0025>

⁵⁹ Arend Lijphart. *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*. New Haven: Yale University Press, 2012. <http://www.jstor.org/stable/j.ctt32bg23>

⁶⁰ Ratto Trabucco, Francesco. "The Latvian Direct Democracy Tools in a Comparative European Context." *Oñati Socio-Legal Series* 10, no. 4 (2020): 744–788. <https://doi.org/10.35295/osls.iisl/0000-0000-0000-1075>

Turkey, where institutional frameworks combine elements of direct and indirect democracy in different configurations⁶¹.

From a theoretical standpoint, these comparative practices can be understood through the frameworks of indirect democracy and deliberative democracy. Indirect democracy emphasizes the delegation of political authority to elected representatives who act on behalf of citizens, while deliberative democracy highlights the importance of reasoned discussion, institutional dialogue, and collective decision-making⁶². Empirical studies on participatory governance, such as examining local councils in Turkey and governance innovations in Barcelona, further demonstrate democratic legitimacy can emerge from institutional deliberation rather than solely from direct electoral participation⁶³. In this context, the involvement of DPRD in selecting regional heads may be interpreted as part of a broader democratic model that integrates representation, deliberation, and institutional accountability.

D. Democratic Legitimacy of Regional Head Elections by DPRD

1. Democratic Legitimacy in Representative Electoral Systems

Democratic legitimacy constitutes a fundamental principle within constitutional governance because determines whether political authority is recognized as valid and acceptable by citizens. In democratic theory, legitimacy refers to the justification of political power based on the consent of the governed and the conformity of political institutions with democratic norms. David Beetham explains that political power becomes legitimate when it is exercised according to established rules, justified by shared beliefs within society, and supported by the consent

⁶¹ Kersting, Norbert, and Max Grömping. "Direct Democracy Integrity and the 2017 Constitutional Referendum in Turkey: A New Research Instrument." *European Political Science* 21 (2022): 216–236. <https://doi.org/10.1057/s41304-020-00309-3>

⁶² Kocaoğlu, Mustafa. "The Relationship of Participatory Democracy and City Councils: A Comparative Analysis Through Kırşehir and Yozgat City Councils." *Procedia Economics and Finance* 23 (2015): 1544–1549. [https://doi.org/10.1016/S2212-5671\(15\)00449-9](https://doi.org/10.1016/S2212-5671(15)00449-9)

⁶³ Bua, Adrià, and Sonia Bussu. "Between Governance-Driven Democratisation and Democracy-Driven Governance: Explaining Changes in Participatory Governance in the Case of Barcelona." *European Journal of Political Research* 60 (2021): 716–737. <https://doi.org/10.1111/1475-6765.12421>

of the people⁶⁴. These three elements form the normative foundation of legitimacy within democratic political systems.

Within democratic governance, elections represent the most important institutional mechanism through which legitimacy is produced and maintained⁶⁵. Elections allow citizens to participate in determining who will exercise political authority and how political institutions will be structured. Through elections, citizens are able to express their political preferences, evaluate political leaders, and periodically renew or withdraw their consent to governmental authority⁶⁶. Because of this role, elections are widely regarded as a central component of democratic legitimacy.

However, democratic legitimacy does not necessarily require direct participation by citizens in every political decision. Most modern democratic systems operate within the framework of representative democracy, where citizens elect representatives who subsequently exercise political authority on their behalf⁶⁷. Andrew Heywood explains that representative democracy functions through the delegation of political authority from citizens to elected officials who represent the interests and preferences of the electorate⁶⁸. This institutional arrangement allows democratic governance to operate effectively within large and complex societies where direct participation by millions of citizens in all political decisions would be impractical.

Representative democracy therefore relies on the concept of political representation. Hanna Pitkin argues that representation involves acting in the interest of the represented in a manner that remains responsive to their needs and preferences⁶⁹. Representatives must therefore exercise political authority not as independent rulers but as agents of the people who granted them their mandate through elections. The legitimacy of representative institutions depends on their ability to maintain this relationship of accountability and responsiveness.

⁶⁴ Beetham, David. *The Legitimation of Power*. London: Palgrave Macmillan, 2013.

⁶⁵ Gerring, John, Strom C. Thacker, and Rodrigo Alfaro. "Democracy and Human Development." *Journal of Politics* 74, no. 1 (2012): 1–17. <https://doi.org/10.1017/s0022381611001113>

⁶⁶ Dahl, Robert A. *On Democracy*. New Haven: Yale University Press, 1998.

⁶⁷ Taagepera, Rein, and Matthew Shugart. *Seats and Votes: The Effects and Determinants of Electoral Systems*. New Haven: Yale University Press, 1989.

⁶⁸ Heywood, Andrew. *Politics*. London: Palgrave Macmillan, 2013.

⁶⁹ Pitkin, Hanna Fenichel. *The Concept of Representation*. Berkeley: University of California Press, 1967.

Within representative democracies, legislative institutions play a central role in translating popular sovereignty into political authority. Legislative bodies are typically composed of elected representatives who articulate public interests, formulate policies, and oversee the actions of executive institutions. Through these functions, legislative institutions become key arenas for political deliberation and decision-making within democratic governance⁷⁰.

The Indonesian constitutional system reflects these principles by establishing representative institutions at both national and regional levels. At the regional level, the Regional People's Representative Council (DPRD) functions as the primary legislative body representing local communities. DPRD members are elected through democratic elections and therefore derive their authority directly from the people. As representatives of local communities, DPRD members are expected to articulate public aspirations, formulate regional regulations, and supervise regional executive authorities⁷¹.

Given this representative mandate, the participation of DPRD in the election of regional heads may theoretically be interpreted as an indirect manifestation of popular sovereignty. Because DPRD members are themselves elected by citizens, their decisions reflect the preferences and interests of the electorate that they represent⁷². Giovanni Sartori argues that representative institutions function as mechanisms through which public preferences are aggregated and translated into collective political decisions⁷³. In this sense, representative decision-making may still embody democratic principles even when citizens do not directly participate in the final electoral decision⁷⁴.

Comparative political practice also demonstrates that democratic systems frequently employ indirect electoral mechanisms

⁷⁰ Manin, Bernard. "Elections and Representation." In *Democracy, Accountability, and Representation*, edited by Adam Przeworski, Susan Stokes, and Bernard Manin. Cambridge: Cambridge University Press, 1999.

⁷¹ Rosida, I. A. "Local Government Legal Politics from Old Order, New Order, to Post-Reformation." *The Journal of Socio-Legal and Islamic Law* 1, no. 2 (2023): 1–8. <https://doi.org/10.30651/jssl.v1i2.20801>

⁷² Ferejohn, John. "Accountability and Authority: Toward a Theory of Political Accountability." In *Democracy, Accountability, and Representation*, edited by Adam Przeworski, Susan Stokes, and Bernard Manin. Cambridge: Cambridge University Press, 1999.

⁷³ Sartori, Giovanni. *Democratic Theory*. 2nd ed. New York: Praeger, 1965.

⁷⁴ Taagepera, Rein, and Matthew Shugart. *Seats and Votes: The Effects and Determinants of Electoral Systems*. New Haven: Yale University Press, 1989.

for certain political offices. In parliamentary democracies, for instance, the head of government is typically selected by parliament rather than directly elected by citizens. Such arrangements illustrate that democratic legitimacy can arise from representative institutions that operate through democratic procedures⁷⁵. The legitimacy of these systems does not depend solely on direct elections but rather on the broader framework of accountability and representation that connects political institutions to the electorate⁷⁶.

Nevertheless, debates concerning indirect elections often revolve around the question of how effectively representative institutions reflect the will of the people. Critics argue that representative bodies may become detached from public interests if political parties or elite groups dominate decision-making processes. Robert Michels famously described this phenomenon through the concept of the “iron law of oligarchy,” which suggests that political organizations tend to become controlled by small groups of elites over time⁷⁷. If such tendencies are not effectively constrained, representative institutions may fail to maintain democratic legitimacy.

Within the context of regional governance, the legitimacy of elections conducted by DPRD must therefore be evaluated in relation to the quality of representation within the institution. If DPRD members maintain strong accountability to their constituents and perform their representative functions responsibly, indirect elections may still reflect democratic principles⁷⁸. However, if representatives become disconnected from the electorate or primarily serve partisan interests, the legitimacy of such electoral mechanisms may be questioned⁷⁹.

Furthermore, democratic legitimacy also depends on the broader political environment in which representative institutions operate. Political parties, electoral systems, and civic participation all influence how effectively representation functions within democratic

⁷⁵ Lijphart, Arend. “Constitutional Choices for New Democracies.” *Journal of Democracy* 2, no. 1 (1991): 72–84. <https://doi.org/10.1353/jod.1991.0011>

⁷⁶ Mudde, Cas, and Cristóbal Rovira Kaltwasser. “Populism and Liberal Democracy.” In *Populism in Europe and the Americas: Threat or Corrective for Democracy?*, edited by Cas Mudde and Cristóbal Rovira Kaltwasser, 95–109. New York: Cambridge University Press, 2012.

⁷⁷ Michels, Robert. *Political Parties*. New York: Free Press, 1962.

⁷⁸ Slater, Dan. “Strong-State Democratization in Malaysia and Singapore.” *Journal of Democracy* 23, no. 2 (April 2012): 19–33. <https://doi.org/10.1353/jod.2012.0021>

⁷⁹ Ziegenhain, Patrick. *The Indonesian Parliament and Democratization*. Singapore: ISEAS Publishing, 2008. <https://doi.org/10.1355/9789812304865>

governance. Where political competition remains open and citizens retain the ability to evaluate and replace their representatives through elections, representative institutions may continue to serve as legitimate channels of democratic authority.

In addition, democratic legitimacy is strengthened when representative institutions engage in deliberative decision-making processes. Deliberation allows representatives to evaluate policy alternatives, consider diverse perspectives, and reach decisions that reflect collective interests rather than narrow political considerations⁸⁰. Scholars of deliberative democracy emphasize that such processes may enhance the quality of democratic decision-making by encouraging reasoned debate and public justification of political choices⁸¹.

In the context of electing regional heads, legislative deliberation may allow representatives to assess candidates based on their administrative competence, leadership qualities, and policy programs. Representatives may also consider long-term governance priorities and regional development strategies when evaluating candidates. This deliberative dimension may potentially produce more informed leadership selection compared with electoral campaigns dominated primarily by political mobilization or populist rhetoric.

However, the advantages of representative electoral mechanisms can only be realized if legislative institutions operate within frameworks that promote integrity, transparency, and accountability. Without such safeguards, the concentration of decision-making authority within legislative institutions may increase the risk of political manipulation or elite capture⁸².

For this reason, evaluating the democratic legitimacy of regional head elections conducted by DPRD requires not only theoretical analysis but also careful consideration of institutional practices. Representative institutions must demonstrate that their decisions

⁸⁰ Ferejohn, John. "Accountability and Authority: Toward a Theory of Political Accountability." In *Democracy, Accountability, and Representation*, edited by Adam Przeworski, Susan Stokes, and Bernard Manin. Cambridge: Cambridge University Press, 1999.

⁸¹ Habermas, Jürgen. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Cambridge: MIT Press, 1996.

⁸² Mudde, Cas, and Cristóbal Rovira Kaltwasser. "Populism and Liberal Democracy." In *Populism in Europe and the Americas: Threat or Corrective for Democracy?*, edited by Cas Mudde and Cristóbal Rovira Kaltwasser, 95–109. New York: Cambridge University Press, 2012.

genuinely reflect public interests and remain accountable to citizens who granted them their political authority.

2. Accountability and Institutional Safeguards in Indirect Elections

Although representative electoral mechanisms may be theoretically compatible with democratic principles, their successful implementation depends on the presence of strong accountability and transparency mechanisms⁸³. Accountability is widely recognized as one of the fundamental pillars of democratic governance because it ensures that political actors remain responsible to the public for decisions and actions⁸⁴. Without effective accountability, democratic institutions may lose legitimacy even if they formally operate within constitutional frameworks.

In the context of regional head elections conducted by DPRD, accountability mechanisms must ensure that representatives exercise their authority in a manner consistent with the interests of the electorate. Legislative representatives entrusted with political authority through democratic elections, and this authority must be exercised responsibly and transparently. As Robert Dahl emphasizes, democratic institutions must provide mechanisms through which citizens can monitor political leaders and hold them accountable for their performance⁸⁵.

One of the primary concerns associated with indirect elections involves the potential concentration of political power within elite groups. When leadership selection occurs within a limited institutional arena such as a legislative chamber, political negotiations may become dominated by party elites and influential political actors⁸⁶. Such conditions may create opportunities for transactional politics, where electoral outcomes are determined through political bargaining rather than public deliberation⁸⁷. The risk of elite domination becomes

⁸³ Dowding, Keith, and Patrick Dumont, eds. *The Selection of Ministers in Europe: Hiring and Firing*. 1st ed. London: Routledge, 2008. <https://doi.org/10.4324/9780203886908>

⁸⁴ Bovens, Mark. "Analysing and Assessing Accountability: A Conceptual Framework." *European Law Journal* 13, no. 4 (2007): 447–468. <https://doi.org/10.1111/j.1468-0386.2007.00378.x>

⁸⁵ Dahl, Robert A. *On Democracy*. New Haven: Yale University Press, 1998.

⁸⁶ Powell Jr., G. Bingham. "Political Representation in Comparative Politics." *Annual Review of Political Science* 7 (2004): 273–296. <https://doi.org/10.1146/annurev.polisci.7.012003.104815>

⁸⁷ Hoesein, Zainal Arifin. "Pemilu Kepala Daerah dalam Transisi Demokrasi." *Jurnal Konstitusi* 7, no. 6 (2016): 1–24. <https://doi.org/10.31078/jk761>

particularly significant when legislative institutions lack transparency or internal accountability mechanisms. If decisions are made through closed-door negotiations without adequate public scrutiny, citizens may find it difficult to evaluate whether their representatives are acting in accordance with public interests. In such circumstances, indirect elections may weaken rather than strengthen democratic legitimacy.

Another important concern relates to transparency within the electoral process⁸⁸. Direct elections provide visible procedures through which citizens can observe political competition, evaluate candidates, and participate directly in leadership selection. Electoral campaigns, public debates, and voting processes all contribute to public engagement in democratic governance⁸⁹.

In contrast, indirect elections conducted within legislative institutions may occur through procedures that are less visible to the public. Legislative deliberations and voting processes may take place within institutional settings that limit direct public observation. Without transparent procedures, citizens may perceive such elections as distant from their participation and influence⁹⁰.

To mitigate these concerns, institutional safeguards must be incorporated into the design of representative electoral mechanisms. Transparency in legislative proceedings is essential to ensure that the public can monitor how representatives exercise their electoral authority⁹¹. Public access to information regarding candidate qualifications, policy programs, and voting procedures may strengthen confidence in the electoral process⁹². Furthermore, clear procedural rules governing legislative voting must be established to prevent manipulation or irregularities within the electoral process. Transparent procedures help ensure that electoral decisions are made in accordance

⁸⁸ Przeworski, Adam. "Minimalist Conception of Democracy: A Defense." In *Democracy's Value*, edited by Ian Shapiro and Casiano Hacker-Cordón, 23–55. Cambridge: Cambridge University Press, 1999.

⁸⁹ Norris, Pippa. "Electoral Engineering: Voting Rules and Political Behavior." In *Electoral Engineering: Voting Rules and Political Behavior*, 265–304. Cambridge: Cambridge University Press, 2004.

⁹⁰ Dowding, Keith, and Patrick Dumont, eds. *The Selection of Ministers in Europe: Hiring and Firing*. 1st ed. London: Routledge, 2008. <https://doi.org/10.4324/9780203886908>

⁹¹ Rodan, Garry, and Caroline Hughes. *The Politics of Accountability in Southeast Asia: The Dominance of Moral Ideologies*. Oxford: Oxford University Press, 2014.

⁹² Powell Jr., G. Bingham. "Political Representation in Comparative Politics." *Annual Review of Political Science* 7 (2004): 273–296. <https://doi.org/10.1146/annurev.polisci.7.012003.104815>

with democratic norms and legal frameworks rather than through informal political negotiations.

In addition to transparency, accountability mechanisms must extend beyond the immediate electoral process. Representatives who participate in leadership selection remain politically accountable to their constituents through periodic elections⁹³. Citizens retain the ultimate authority to evaluate the performance of their representatives and replace them if they fail to act in accordance with public interests⁹⁴. Civil society organizations, academic institutions, and independent media also play important roles in strengthening accountability within representative electoral systems. By monitoring legislative activities and publicizing information regarding political decision-making, these actors contribute to democratic oversight and encourage responsible behavior among political representatives.

Participatory mechanisms may further complement representative electoral systems by providing opportunities for citizens to express their views regarding leadership selection and governance priorities. Public consultations, policy forums, and civic dialogues may allow citizens to communicate their expectations to legislative representatives before electoral decisions are made. Such mechanisms can strengthen the relationship between citizens and political institutions even when elections occur indirectly.

Ultimately, the democratic legitimacy of regional head elections conducted by DPRD depends not only on constitutional interpretation but also on the institutional environment in which such elections occur⁹⁵. Representative electoral mechanisms must operate within frameworks that guarantee transparency, accountability, and responsiveness to citizens. When these safeguards are effectively implemented, indirect elections may still reflect democratic principles and maintain the legitimacy of regional governance institutions⁹⁶.

To address the democratic risks associated with indirect electoral mechanisms, it is necessary to design concrete institutional

⁹³ Tomsa, Dirk. *Party Politics and Democratization in Indonesia: Golkar in the Post-Suharto Era*. London: Routledge, 2008.

⁹⁴ Manin, Bernard. "Elections and Representation." In *Democracy, Accountability, and Representation*, edited by Adam Przeworski, Susan Stokes, and Bernard Manin. Cambridge: Cambridge University Press, 1999.

⁹⁵ Rodan, Garry, and Caroline Hughes. *The Politics of Accountability in Southeast Asia: The Dominance of Moral Ideologies*. Oxford: Oxford University Press, 2014.

⁹⁶ Przeworski, Adam. "Minimalist Conception of Democracy: A Defense." In *Democracy's Value*, edited by Ian Shapiro and Casiano Hacker-Cordón, 23–55. Cambridge: Cambridge University Press, 1999.

safeguards that ensure transparency and accountability within DPRD-based elections. One important mechanism is the implementation of open and recorded voting procedures, in which each DPRD member's vote is publicly disclosed and formally documented. This system enables constituents to directly evaluate the political choices of their representatives and discourages hidden political transactions. In addition, voting sessions should be broadcast through official public channels to ensure real-time transparency and broader public scrutiny⁹⁷.

In addition, external oversight mechanisms must be strengthened through the involvement of independent institutions and structured public monitoring. Anti-corruption bodies, electoral supervisory institutions, and civil society organizations should be granted formal access to observe the electoral process within DPRD, including deliberation stages and voting procedures⁹⁸. The mandatory reporting mechanism should be introduced, requiring DPRD to publish official reports detailing the entire electoral process, including candidate evaluation criteria and voting outcomes. Public access to these reports, combined with media scrutiny, may significantly reduce opportunities for elite capture and transactional politics⁹⁹.

Transparency in candidate selection and deliberation processes must be institutionalized through clear procedural regulations. DPRD should be required to conduct public fit and proper tests for all candidates, where candidates present their policy platforms and respond to questions in an open forum. These sessions should be accessible to the public and documented as part of the official record. In addition, clear legal provisions must prohibit closed-door negotiations in determining electoral outcomes and require that all deliberative processes be conducted within accountable institutional settings¹⁰⁰. Such measures would reduce the likelihood of opaque political bargaining and reinforce public trust in representative institutions. As

⁹⁷ Bovens, Mark. "Analysing and Assessing Accountability: A Conceptual Framework." *European Law Journal* 13, no. 4 (2007): 447–468. <https://doi.org/10.1111/j.1468-0386.2007.00378.x>

⁹⁸ Zgiep, M. (2019). Beyond institutions and the system: Network approach to deliberative democracy. *Cogent Social Sciences*, 5(1). <https://doi.org/10.1080/23311886.2019.1639876>

⁹⁹ Dahl, Robert A. *On Democracy*. New Haven: Yale University Press, 1998.

¹⁰⁰ Zgiep, M. (2019). Beyond institutions and the system: Network approach to deliberative democracy. *Cogent Social Sciences*, 5(1). <https://doi.org/10.1080/23311886.2019.1639876>

emphasized in theories of political accountability, democratic legitimacy depends not only on electoral procedures but also on the extent to which decision-making processes remain open, reasoned, and responsive to public interests¹⁰¹.

3. *Global Constitutionalism and Indirect Electoral Legitimacy*

Within the broader framework of global constitutionalism, the legitimacy of indirect electoral mechanisms is not determined solely by the existence of direct elections, but rather by the extent to which representative institutions uphold accountability, transparency, and responsiveness to citizens¹⁰². Contemporary comparative studies suggest that democratic systems increasingly adopt hybrid models that combine elements of direct and indirect participation, reflecting institutional diversity across jurisdictions. In this context, democratic legitimacy may arise from the interaction between representative authority and participatory mechanisms, rather than from a single uniform electoral model¹⁰³.

Comparative practices further demonstrate that indirect electoral mechanisms are not inherently incompatible with democratic principles. In several European systems, institutional arrangements allow legislative bodies to play a central role in leadership selection, particularly within parliamentary systems and subnational governance structures¹⁰⁴. A notable example can be observed in Germany, where local and regional governance has historically incorporated models resembling the *mayor–council system*, enabling elected councils to deliberate on and determine executive leadership. These arrangements emphasize institutional deliberation and collective decision-making while maintaining democratic accountability through electoral cycles and public oversight.

¹⁰¹ Ferejohn, John. "Accountability and Authority: Toward a Theory of Political Accountability." In *Democracy, Accountability, and Representation*, edited by Adam Przeworski, Susan Stokes, and Bernard Manin. Cambridge: Cambridge University Press, 1999.

¹⁰² Bua, Adriaà, and Sonia Bussu. "Between Governance-Driven Democratisation and Democracy-Driven Governance: Explaining Changes in Participatory Governance in the Case of Barcelona." *European Journal of Political Research* 60 (2021): 716–737. <https://doi.org/10.1111/1475-6765.12421>

¹⁰³ Ratto Trabucco, Francesco. "The Latvian Direct Democracy Tools in a Comparative European Context." *Oñati Socio-Legal Series* 10, no. 4 (2020): 744–788. <https://doi.org/10.35295/osls.iisl/0000-0000-0000-1075>

¹⁰⁴ Ratto Trabucco, Francesco. "The Latvian Direct Democracy Tools in a Comparative European Context." *Oñati Socio-Legal Series* 10, no. 4 (2020): 744–788. <https://doi.org/10.35295/osls.iisl/0000-0000-0000-1075>

From a theoretical perspective, such practices can be explained through the frameworks of indirect democracy and deliberative democracy. Indirect democracy emphasizes the delegation of political authority to elected representatives as a practical necessity in complex societies, while deliberative democracy underscores the importance of reasoned discussion and institutional dialogue in producing legitimate political outcomes. As argued by Arend Lijphart, democratic systems particularly characterized by consensus-oriented governance often rely on representative institutions to mediate public preferences through negotiation and deliberation¹⁰⁵. Consequently, the involvement of legislative bodies such as DPRD in selecting regional heads may be interpreted as part of a broader constitutional design that integrates representation, deliberation, and institutional accountability in sustaining democratic legitimacy.

4. Pancasila Perspective on Representative Democracy

From the perspective of Pancasila, particularly the fourth principle, democracy is understood not merely as a procedural mechanism based on majority voting, but as a process guided by deliberation and wisdom. The Pancasila fourth principle of “*Kerakyatan yang dipimpin oleh hikmat kebijaksanaan dalam permusyawaratan/perwakilan*” emphasizes that political decision-making should be conducted through thoughtful deliberation within representative institutions rather than relying solely on direct mass participation. This philosophical foundation suggests that democracy in Indonesia inherently accommodates representative mechanisms such as decision-making through DPRD, as long as such processes reflect collective reasoning and public interest¹⁰⁶.

The concept of *musyawarah* (deliberation) distinguishes Pancasila democracy from purely majoritarian models of democracy. While direct elections prioritize numerical majority through voting, *musyawarah* emphasizes consensus-building, rational discussion, and ethical consideration in decision-making. In this context, the involvement of DPRD in electing regional heads may be viewed as an institutional embodiment of deliberative democracy, where representatives engage in structured dialogue to determine leadership based on competence, integrity, and policy vision. Such a process may potentially produce

¹⁰⁵ Arend Lijphart. *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*. New Haven: Yale University Press, 2012.
<http://www.jstor.org/stable/j.ctt32bg23>

¹⁰⁶ Notonagoro. *Pancasila: Dasar Negara Republik Indonesia*. Jakarta: Balai Pustaka, 1984.

decisions that reflect *hikmat kebijaksanaan*, rather than being driven solely by political mobilization or populist dynamics¹⁰⁷.

However, the realization of Pancasila democracy within representative institutions depends heavily on the quality of deliberation and the integrity of political actors. If deliberation within DPRD is reduced to transactional bargaining or elite compromise, then the normative ideal of *hikmat kebijaksanaan* cannot be achieved. Therefore, the legitimacy of DPRD-based elections must be assessed not only from a procedural perspective but also from a philosophical standpoint, namely whether the process genuinely reflects deliberation, ethical reasoning, and public interest. As emphasized in Indonesian constitutional thought, democracy must integrate representation, deliberation, and moral responsibility to ensure that political power remains aligned with the values of Pancasila¹⁰⁸. Thus, within the framework of Pancasila democracy, the question is not whether democracy must be direct or indirect, but whether the decision-making process embodies deliberation, wisdom, and moral responsibility as the core of democratic legitimacy.

E. Conclusion

The constitutional discourse surrounding the mechanism of regional head elections in Indonesia reflects broader debates concerning the relationship between democracy, representation, and constitutional interpretation within modern governance systems. The Indonesian Constitution provides a normative framework that recognizes both democratic governance and regional autonomy as essential elements of the state structure. Article 18 paragraph (4) of the 1945 Constitution states that governors, regents, and mayors shall be democratically elected, yet the constitutional text itself does not explicitly prescribe the specific mechanism through which such democratic elections must occur. This constitutional formulation leaves room for interpretation regarding whether democratic elections must always be conducted through direct popular vote or whether representative institutions may legitimately play a role in the electoral process.

From a constitutional perspective, democratic principles may be realized through various institutional arrangements, including both direct elections and representative decision-making mechanisms.

¹⁰⁷ Kaelan. *Pendidikan Pancasila*. Yogyakarta: Paradigma, 2013.

¹⁰⁸ Jimly Asshiddiqie. *Konstitusi dan Konstitusionalisme Indonesia*. Jakarta: Sinar Grafika, 2005.

Within the framework of representative democracy, the people exercise their sovereignty not only through direct participation but also through institutions that represent their political will. Legislative bodies such as the Regional People's Representative Council (DPRD) are themselves products of democratic elections and therefore carry a representative mandate from the electorate. Consequently, the involvement of DPRD in the election of regional heads may be interpreted as an indirect manifestation of popular sovereignty, insofar as the representatives act in accordance with their constitutional responsibilities and remain accountable to the citizens who elected them.

Comparative democratic practice also demonstrates that indirect electoral mechanisms are not inherently inconsistent with democratic governance. In many parliamentary systems, executive leaders are selected by representative institutions rather than through direct popular elections, yet such systems remain democratic because the chain of accountability ultimately connects governmental authority to the electorate. Within the Indonesian context, the historical evolution of regional head elections also illustrates that both indirect and direct mechanisms have existed within the constitutional framework, confirming that democracy does not depend solely on a single procedural model.

However, beyond constitutional and comparative analysis, the legitimacy of DPRD-based elections must also be assessed within the philosophical framework of Pancasila democracy, particularly the Fourth Principle: “*Kerakyatan yang dipimpin oleh hikmat kebijaksanaan dalam permusyawaratan/perwakilan.*” This principle emphasizes that democratic decision-making is not merely based on numerical majority through direct voting, but also on deliberation, wisdom, and representation. In this context, elections conducted by DPRD may reflect the ideal of *musyawarah*, where representatives engage in reasoned deliberation to reach decisions oriented toward the public good. Therefore, DPRD-based elections are not only constitutionally permissible but also philosophically compatible with the core values of Pancasila democracy, as long as the process genuinely reflects *hikmat kebijaksanaan* rather than narrow political interests.

Nevertheless, the democratic legitimacy of such mechanisms depends significantly on the presence of strong institutional safeguards. Without transparency, accountability, and public oversight, indirect elections risk being dominated by political elites, transactional politics, and closed decision-making processes that undermine public trust.

Therefore, mechanisms such as open voting procedures, transparent deliberation processes, public access to candidate information, and effective oversight by independent institutions and civil society are essential to ensure that representative decision-making remains the accountable, effective processes, and aligned with public interests.

The democratic legitimacy of regional governance depends not only on whether elections conducted directly or indirectly, but on whether the institutional design upholds the principles of accountability, transparency, participation, and deliberation. Within this framework, DPRD-based elections may be regarded as a constitutionally valid and philosophically grounded model of democracy that aligns with Pancasila, particularly when they embody the values of representation and deliberative wisdom. As Indonesia continues to refine its democratic system, the challenge lies not in choosing between direct and indirect mechanisms, but in ensuring any electoral model adopted remains faithful to the principles of popular sovereignty, the rule of law, and the substantive ideals of Pancasila democracy.

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<http://www.jstor.org/stable/j.ctt32bg23>.
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<https://doi.org/10.36746/alj.v7i1.723>.
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