

## *Realizing Regional Elections Based on People's Sovereignty: Constitutionality of Regional Elections through the DPRD*

### **Mewujudkan Pilkada Berdasarkan Kedaulatan Rakyat: Kajian Normatif atas Konstitusionalitas Pilkada melalui DPRD**

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#### Abstract

*The interpretive ambiguity of Article 18 of the Indonesian Constitution regarding the phrase "democratically elected" sparks debate between direct regional elections and indirect elections through the Regional Representative Council. The core issue entails securing popular sovereignty within a representative framework to mitigate exorbitant political costs and systemic corruption risks. Utilizing a normative legal methodology with statutory and conceptual approaches, this study addresses the literature gap concerning the constitutional design of indirect elections as manifestations of popular sovereignty. Findings demonstrate that indirect elections are constitutionally legitimate and congruent with democratic principles, effectively reducing electoral expenditures and dismantling money politics networks. This research formulates a normative foundation to reinforce popular sovereignty through indirect electoral systems, ensuring democratic legitimacy. Conclusively, indirect elections profoundly impact regional governmental stability, practically necessitating stringent legal regulations on comprehensive public oversight and political party integrity to optimally safeguard citizen sovereignty throughout the entire regional head electoral selection process.*

#### Abstrak

Ambiguitas penafsiran Pasal 18 ayat UUD NRI 1945 mengenai frasa "dipilih secara demokratis" memicu dinamika antara sistem pemilihan kepala daerah langsung dan melalui DPRD. Fokus permasalahan yaitu menjamin kedaulatan rakyat dalam mekanisme perwakilan guna meminimalisir residu biaya politik tinggi dan risiko korupsi. Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan konseptual. Belum adanya kajian tentang desain konstitusional Pilkada melalui DPRD sebagai perwujudan kedaulatan rakyat. Temuan penelitian ini menunjukkan Pilkada melalui DPRD secara konstitusional sah dan selaras dengan prinsip negara demokrasi. Mekanisme ini efektif mampu mereduksi anggaran Pilkada dan memutus rantai politik uang. Tujuan penelitian ini adalah merumuskan landasan normatif dalam penguatan kedaulatan rakyat melalui sistem pemilihan tidak langsung agar tetap memiliki legitimasi rakyat. Sebagai simpulan, penelitian ini menegaskan bahwa Pilkada melalui DPRD memiliki implikasi strategis terhadap stabilitas pemerintahan daerah. Implikasi praktisnya mendesak adanya regulasi dalam pengawasan publik dan integritas partai politik guna memastikan kedaulatan rakyat dalam proses Pilkada.



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## A. INTRODUCTION

### 1. Background

The issue of ambiguity in the interpretation of Article 18 of the 1945 Constitution of the Republic of Indonesia, which states that regional heads are “elected democratically”.<sup>1</sup> The phrase “democratically” in that article does not explicitly require direct elections, thus giving rise to dual interpretations between direct democracy (election by the people) and indirect democracy (election through the Regional People’s Representative Council).<sup>2</sup> This normative uncertainty is often exploited as a space for political contestation, leading to instability in Indonesia’s electoral system. Constitutionally, the lack of a clear stipulation regarding the election method creates an “open legal policy” for lawmakers, yet simultaneously raises doubts about the consistency of protecting citizens’ political rights.<sup>3</sup>

Local elections in Indonesia serve as a mechanism for the realization of popular sovereignty at the local level, a process that is constantly subject to regulatory changes. Since the reform era, the mechanism for filling the positions of Governor, Regent, and Mayor has transformed from a system of appointment by the Regional People’s Representative Council to direct election by the people.<sup>4</sup> This change was driven by the desire to bring leaders closer to their constituents and minimize the practice of political oligarchy at the regional legislative level.<sup>5</sup> However, debates regarding the effectiveness and socio-political costs of direct regional elections have resurfaced in constitutional discourse, sparking proposals to reinstate election mechanisms through the Regional People’s Representative Council (DPRD) as a solution to various shortcomings of direct

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<sup>1</sup> Endang Lestari and Muh Risnain, “Evaluasi Norma Kedaulatan Rakyat dalam Konstitusi dan Pelaksanaannya Dalam Kerangka Negara Hukum Demokratis,” *Indonesian Journal of Law and Policy Studies* 1, no. 1 (May 31, 2020): 25, <https://doi.org/10.31000/ijlp.v1i1.2633>.

<sup>2</sup> Muhammad Bahrul Ulum, “Indonesian Democracy and Political Parties After Twenty Years of Reformation: A Contextual Analysis,” *Indonesia Law Review* 10, no. 1 (2020): 29–44, <https://doi.org/10.15742/ilrev.v10n1.577>.

<sup>3</sup> Lita Wardhani, Farid Ibrahim, and Adissya Christia, “Koherensi Sistem Pemilihan Kepala Daerah Di Indonesia Terhadap Nilai-Nilai Demokrasi Pancasila,” *Jurnal Pembangunan Hukum Indonesia* 2, no. 3 (August 28, 2020): 305–18, <https://doi.org/10.14710/jphi.v2i3.305-318>.

<sup>4</sup> Rifki Fakhudin, “Impeachment of Regional Heads Resulted in Direct Election in the Perspective of Constitutional Law,” *Jurnal Scientia Indonesia* 7, no. 1 (2021): 1–14, <https://doi.org/10.15294/jsi.v7i1.36149>.

<sup>5</sup> Wardhani, Ibrahim, and Christia, “Koherensi Sistem Pemilihan Kepala Daerah Di Indonesia Terhadap Nilai-Nilai Demokrasi Pancasila.”

democracy.<sup>6</sup>

A real-world example of this issue is the enactment of Law No. 22 of 2014 on the Election of Governors, Regents, and Mayors, which temporarily shifted the direct regional election system to an election conducted by the Regional People's Representative Council (DPRD).<sup>7</sup> However, this law was soon repealed via Government Regulation in Lieu of Law No. 1 of 2014 due to a massive wave of public opposition that viewed election by the Regional People's Representative Council (DPRD) as a regression of democracy.<sup>8</sup> Additionally, similar debates arose when the government massively appointed acting regional heads to fill vacant positions ahead of the 2024 simultaneous regional elections, a move viewed by some legal experts as a form of "appointment" that undermines the principle of popular sovereignty by disregarding direct public participation or that of their local representatives.<sup>9</sup>

Regional elections conducted by the Regional People's Representative Council (DPRD) are also frequently linked to high rates of corruption among regional heads and the prevalence of money politics within the direct election system. Data indicates that extremely high political costs force regional head candidates to seek funding from capital owners (oligarchs), which subsequently leads to policies that do not prioritize the people's interests after they are elected.<sup>10</sup> However, returning the mechanism to the Regional People's Representative Council (DPRD) is not without legal issues; concerns about the occurrence of "horse-trading politics" at the regional parliamentary level are seen as potentially distancing the election process from the substantive values of popular sovereignty.<sup>11</sup> This contradiction between procedural efficiency and substantive

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<sup>6</sup> Firda Erlambang, "Polemik Pilkada Langsung di Masa Pandemi Covid-19 Dalam Prespektif Sosiologi Hukum," *Jurnal Hukum Dan Pembangunan Ekonomi* 8, no. 2 (July 16, 2021): 112, <https://doi.org/10.20961/hpe.v8i2.49761>.

<sup>7</sup> Redi Pirmansyah, Junaidi Junaidi, and Martindo Merta, "Implications of Rescheduling the Direct Election of The Regional Head (PILKADA) of South Sumatra in The Midst of The Covid-19 Pandemic," *Khazanah Sosial* 4, no. 4 (October 16, 2022): 650–61, <https://doi.org/10.15575/ks.v4i4.20255>.

<sup>8</sup> Aprianus Loin and Randy Neonbeni, "Sistem Pemilihan Kepala Daerah Dan Implementasinya Dalam Undang-Undang Nomor 1 Tahun 2015 Tentang Pemilihan Gubernur, Bupati Dan Walikota," *SEIKAT: Jurnal Ilmu Sosial, Politik Dan Hukum* 2, no. 2 (April 21, 2023): 152–64, <https://doi.org/10.55681/seikat.v2i2.470>.

<sup>9</sup> Mochammad Tommy Kusuma, Elva Imeldatur Rohmah, and Nafi Mubarok, "Pengisian Kekosongan Jabatan Kepala Daerah Menjelang Pemilihan Serentak 2024" 2, no. 2 (2024): 1–33, <https://doi.org/https://doi.org/10.15642/sosyus.v2i2.200>.

<sup>10</sup> Erlambang, "Polemik Pilkada Langsung Di Masa Pandemi Covid-19 Dalam Prespektif Sosiologi Hukum."

<sup>11</sup> Patrisia Yubiliana et al., "Pemilihan Kepala Daerah Dan Wakil Kepala Daerah Secara Langsung Dalam Perspektif Demokrasi Lokal Sebagaimana Tercantum Dalam Pasal 1 Ayat (2) Undang-Undang Dasar Negara Republik Amerika Serikat, Sementara Duta Besar Amerika Serikat Untuk Indonesia Turu," *Journal of Administrative and Social Science* 6, no. 1 (2025): 365–78, <https://doi.org/https://doi.org/10.55606/jass.v6i1.2208>.

legitimacy lies at the heart of the legal issue that requires normative analysis.

Previous research has extensively examined regional elections from the perspectives of political sociology and technical evaluation of their administration, particularly in the context of adapting elections during the pandemic.<sup>12</sup> Some studies have also focused on election result disputes at the Constitutional Court and the implications of appointing acting officials for regional stability.<sup>13</sup> However, there has been no study on the synchronization of the value of popular sovereignty with the constitutional design of local elections, which is often overlooked by the Regional People's Representative Council (DPRD). Most of the literature remains trapped in the dichotomy between "direct" and "indirect" without providing a normative formulation capable of ensuring that popular sovereignty remains intact even through representative mechanisms.

Unlike previous studies that predominantly evaluate regional elections through historical original intent or technical administrative compliance, this research offers a novel constitutional framework by synchronizing DPRD oversight mechanisms with the substantive demands of popular sovereignty. Most previous studies have only examined constitutionality from the perspective of original intent, but have failed to explore how oversight mechanisms and public participation can be "integrated" into the election process within the Regional People's Representative Council (DPRD) to ensure accountability.<sup>14</sup> This is important to investigate given that popular sovereignty is not merely a technical mechanism for casting votes, but the substance of every policy regarding the filling of public offices in a democratic rule-of-law state.<sup>15</sup>

The importance of this research from a constitutional law perspective lies in providing legal certainty regarding the future direction of regional elections in Indonesia. As a state founded on popular sovereignty (Article 1, Paragraph 2 of the 1945 Constitution), every mechanism for the transition of power at the local level must have a solid constitutional foundation and not conflict with the principles of the rule of law.<sup>16</sup>

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<sup>12</sup> Erlambang, "Polemik Pilkada Langsung Di Masa Pandemi Covid-19 Dalam Prespektif Sosiologi Hukum."

<sup>13</sup> M Riadhussyah et al., "The Dignity of Democracy in the Appointment of Acting Regional Heads by the President: Legal Construction After the Constitutional Court Decision Number 15/PUU-XX/2022," *Jurnal Jurisprudence* 12, no. 1 (October 31, 2022): 106–19, <https://doi.org/10.23917/jurisprudence.v12i1.1044>.

<sup>14</sup> Iqbal Nasir, "Analisis Hukum Penanganan Pelanggaran Adminitrasi Pemilu/Pemilihan," *Khazanah Hukum* 2, no. 1 (April 30, 2020): 41–50, <https://doi.org/10.15575/kh.v2i1.7689>.

<sup>15</sup> Lestari and Risnain, "Evaluasi Norma Kedaulatan Rakyat Dalam Konstitusi dan Pelaksanaannya dalam Kerangka Negara Hukum Demokratis."

<sup>16</sup> Fakihudin, "Impeachment of Regional Heads Resulted in Direct Election in the Perspective of Constitutional Law."

Without in-depth normative analysis, changes to regional election regulations will merely serve as a tool for the short-term political interests of parliamentary elites, potentially leading to social disintegration and public distrust in democratic institutions.<sup>17</sup> Furthermore, this study is necessary to ensure that regional autonomy is not distorted by political centralism through excessive control by the Regional People's Representative Council (DPRD).

Theoretically, this research will examine whether the representative system within the DPRD remains relevant in representing the will of the local people amidst growing demands for public transparency.<sup>18</sup> In the concept of Pancasila democracy, the wisdom of deliberation and representation serves as the primary foundation; however, its implementation in regional elections often conflicts with the fundamental human right to vote and be elected directly.<sup>19</sup> Therefore, it is important to re-examine whether the constitutionality of elections by the Regional People's Representative Council (DPRD) can stand on equal footing with direct elections without infringing upon the constitutional rights guaranteed in the Constitution.<sup>20</sup> This analysis will employ a statutory approach and a conceptual approach to examine the position of these norms within the hierarchy of Indonesian legislation.<sup>21</sup>

The primary objective of this study is to formulate a constitutional foundation and legal arguments that strengthen the position of popular sovereignty within the mechanism for electing regional heads through the Regional People's Representative Council (DPRD). This study seeks to address the interpretive challenges surrounding the phrase "elected democratically" so that it no longer serves as a vague provision easily altered for pragmatic interests. Furthermore, this study aims to identify the normative prerequisites that must be met if Indonesia chooses to return to an indirect election system to ensure that universal democratic values remain accommodated within the framework of popular sovereignty. Thus, the findings of this study are expected to serve

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<sup>17</sup> Pirmansyah, Junaidi, and Merta, "Implications of Rescheduling the Direct Election of The Regional Head (PILKADA) of South Sumatra in The Midst of The Covid-19 Pandemic."

<sup>18</sup> Ulum, "Indonesian Democracy and Political Parties After Twenty Years of Reformation: A Contextual Analysis."

<sup>19</sup> Wardhani, Ibrahim, and Christia, "Koherensi Sistem Pemilihan Kepala Daerah Di Indonesia Terhadap Nilai-Nilai Demokrasi Pancasila."

<sup>20</sup> Sodikin Sodikin, "Pemilihan Kepala Daerah Dalam Konteks Uud Nri Tahun 1945," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 4, no. 1 (2015): 43, <https://doi.org/10.33331/rechtsvinding.v4i1.47>.

<sup>21</sup> Lestari and Risnain, "Evaluasi Norma Kedaulatan Rakyat Dalam Konstitusi dan Pelaksanaannya dalam Kerangka Negara Hukum Demokratis."

as a reference for lawmakers in regulating future regional head elections.

This article will focus on a normative analysis of Article 18 of the 1945 Constitution of the Republic of Indonesia and its alignment with the principle of popular sovereignty. The author will conduct an in-depth examination of the limits of the legislative branch's authority in determining election methods and seek a balance between the effectiveness of the representative system and popular legitimacy. This study will examine Constitutional Court decisions on regional elections, along with the latest legal literature, to develop a model for electing regional heads that is both constitutional and democratic. Thus, it is hoped that the realization of popular sovereignty will no longer be merely a political slogan, but rather a legal reality firmly embedded in every regional election process.

## **2. Research Questions**

Based on the normative ambiguities and constitutional friction identified, this study formulates the following core legal questions:

- a. To what extent does the delegation of regional head elections to the Regional People's Representative Council (DPRD) fulfill the constitutional mandate of being "elected democratically" under Article 18, Paragraph (4) of the 1945 Constitution, without violating the citizens' fundamental right to popular sovereignty?
- b. What specific normative prerequisites and institutional oversight mechanisms must be integrated into the constitutional design of DPRD-based elections to prevent the consolidation of political oligarchies and ensure accountability to the electorate?

## **3. Research Methods**

This study employs a normative legal research design to analyze the constitutionality of regional head elections conducted through the Regional People's Representative Council (DPRD) within the framework of popular sovereignty. This approach focuses on legislation, legal doctrine, and academic literature to assess the alignment of the regional head election mechanism with constitutional principles. The normative approach was chosen because the study's objective is to systematically examine legal and constitutional aspects rather than to measure the empirical behavior

of the public.<sup>22</sup>

The data collected consists of both primary and secondary data. Primary data includes legislation related to regional elections, the constitution, Constitutional Court rulings, and relevant Regional People's Representative Council (DPRD) documents. Secondary data include legal texts, academic journals, scholarly articles, and research reports on regional elections and local democracy. Data collection was conducted through systematic document and literature reviews, including searches of legal journal databases, government regulations, and the Constitutional Court's decision repository. Research instruments included a document validation questionnaire to assess the relevance of documents to the legal issues under study, as well as a checklist for compliance with the principles of popular sovereignty and constitutionality. Instrument validation was performed using source triangulation techniques to ensure data consistency, while reliability was measured through inter-researcher consistency testing in document analysis.<sup>23</sup>

Data analysis was conducted using legal content analysis and descriptive qualitative analysis. Each document was analyzed based on the categories of positive law, principles of constitutionality, and compliance with the principle of popular sovereignty. The analysis was conducted systematically through the identification of legal norms, legal interpretation, and comparative synthesis of regulations and Constitutional Court decisions. The results of the analysis are presented in a descriptive narrative that illustrates the extent to which the mechanism for regional elections through the Regional People's Representative Council (DPRD) aligns with constitutional principles, thereby enabling other researchers to replicate this study using the same procedures.<sup>24</sup>

## **B. DISCUSSION**

### **1. The Constitutional Validity of Representative Elections (DPRD) under Article 18**

Demonstrates that the regional head election system should be regarded not simply as a routine five-year event, but as an essential component of the constitutional

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<sup>22</sup> Sidi Wiraguna, "Metode Normatif Dan Empiris Dalam Penelitian Hukum: Studi Eksploratif Di Indonesia," *Public Sphere: Jurnal Sosial Politik, Pemerintahan Dan Hukum* 3, no. 3 (November 30, 2024), <https://doi.org/10.59818/jps.v3i3.1390>.

<sup>23</sup> Dwi Damayanti and Yulia Audina Sukmawan, "Metode Penelitian Hukum Normatif Dan Empiris Sebagai Strategi Penguatan Perspektif Kajian Ilmu Hukum" 4, no. 1 (2025): 114–28, <https://doi.org/https://doi.org/10.32801/nolaj.v4i3.116>.

<sup>24</sup> Iman Rifa'i et al., *Metodologi Penelitian Hukum*, 2023.

framework that structures central-local relations.<sup>25</sup> Legal complexities are also apparent in the process of filling regional head vacancies prior to the 2024 simultaneous elections. The widespread appointment of acting regional heads by the central government has prompted debates about constitutionality and the integrity of democracy, as these positions are not filled through democratic elections by the people or their local representatives.<sup>26</sup> This situation highlights why some experts consider election through the Regional People's Representative Council (DPRD) a viable compromise to maintain governmental stability while ensuring participation via a legitimate representative institution.<sup>27</sup> In terms of public policy, stable local leadership is essential for high-quality public services and the effective realization of regional autonomy, unimpeded by prolonged transactional political challenges.

The philosophical foundation of popular sovereignty is fundamental to understanding the mechanisms for electing regional heads in Indonesia. Popular sovereignty is conceptualized as a dynamic constitutional norm in which sovereignty resides with the people and is exercised in accordance with the Constitution.<sup>28</sup> Analysis of this norm suggests that, within a democratic rule of law, all mechanisms for filling public office should reflect the will of the people, either directly or through representative institutions. The Indonesian Constitution accommodates this debate through Article 18 of the 1945 Constitution, which stipulates that regional heads are elected democratically, but does not explicitly require direct election by the people.<sup>29</sup> This ambiguity generates a dialectic between procedural and substantive democracy, a focus that has become central in recent constitutional law scholarship.

The legitimacy of the regional head election system should also be evaluated in light of its alignment with the democratic values of Pancasila. Scholarly literature suggests that the ideal electoral system is consistent with the fourth principle of Pancasila, which

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<sup>25</sup> Titon Kurnia, "Normalisasi Hubungan Pusat - Daerah Sesuai Konstitusi Presidensial," *Refleksi Hukum: Jurnal Ilmu Hukum* 4, no. 2 (April 17, 2020): 135–54, <https://doi.org/10.24246/jrh.2020.v4.i2.p135-154>.

<sup>26</sup> Kusuma, Rohmah, and Mubarak, "Pengisian Kekosongan Jabatan Kepala Daerah Menjelang Pemilihan Serentak 2024."

<sup>27</sup> Riadhussyah et al., "The Dignity of Democracy in the Appointment of Acting Regional Heads by the President: Legal Construction After the Constitutional Court Decision Number 15/PUU-XX/2022."

<sup>28</sup> Lestari and Risnain, "Evaluasi Norma Kedaulatan Rakyat dalam Konstitusi dan Pelaksanaannya Dalam Kerangka Negara Hukum Demokratis."

<sup>29</sup> Loin and Neonbeni, "Sistem Pemilihan Kepala Daerah dan Implementasinya dalam Undang-Undang Nomor 1 Tahun 2015 Tentang Pemilihan Gubernur, Bupati Dan Walikota."

emphasizes wisdom and prudence in deliberation and representation.<sup>30</sup> In practice, the transition from a representative to a direct election system since the reform era has been interpreted as an attempt to enhance the legitimacy of local leaders. Nevertheless, after two decades, critiques have arisen questioning whether the direct system genuinely reflects popular sovereignty or instead fosters a new oligarchy dominated by capital owners.<sup>31</sup> This ambiguity is further exacerbated by political parties' practices, which frequently lack transparency in political recruitment, resulting in an electoral process—whether direct or indirect—dominated by the pragmatic interests of party elites.

The study's findings demonstrate that electing regional heads through the Regional People's Representative Council (DPRD) is both constitutional and legally valid, as established by a grammatical and systematic interpretation of Article 18 of the 1945 Constitution of the Republic of Indonesia.<sup>32</sup> While direct elections may foster greater public participation, indirect elections via the DPRD represent an operationalization of representative democracy that is recognized within Indonesia's constitutional framework.<sup>33</sup> This approach aligns with the principle of open legal policy, which grants the legislature full authority to determine election mechanisms as long as they adhere to universal democratic principles. The legitimacy of regional heads elected by the DPRD is derived from the mandate of council members, who serve as representatives of the people and are themselves elected through democratic legislative processes.

## **2. Mitigating Electoral Oligarchies: Fiscal Efficiency and Policy Stability**

The evolution of regional election regulations, particularly under Law No. 1 of 2015 and its subsequent amendments, reflects continuous efforts to refine the electoral system and ensure legal certainty. However, implementing this law often encounters sociological and technical challenges. For example, during the COVID-19 pandemic, the rescheduling of regional elections generated controversy concerning the protection of citizens' political rights during a public health crisis.<sup>34</sup> These technical challenges have broader legal implications, including an increased risk of administrative violations and electoral crimes,

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<sup>30</sup> Wardhani, Ibrahim, and Christia, "Koherensi Sistem Pemilihan Kepala Daerah Di Indonesia Terhadap Nilai-Nilai Demokrasi Pancasila."

<sup>31</sup> Ulum, "Indonesian Democracy and Political Parties After Twenty Years of Reformation: A Contextual Analysis."

<sup>32</sup> Lestari and Risnain, "Evaluasi Norma Kedaulatan Rakyat dalam Konstitusi dan Pelaksanaannya Dalam Kerangka Negara Hukum Demokratis."

<sup>33</sup> Loin and Neonbeni, "Sistem Pemilihan Kepala Daerah dan Implementasinya dalam Undang-Undang Nomor 1 Tahun 2015 Tentang Pemilihan Gubernur, Bupati Dan Walikota."

<sup>34</sup> Erlambang, "Polemik Pilkada Langsung Di Masa Pandemi Covid-19 Dalam Prespektif Sosiologi Hukum."

which require careful management by election organizers.

Research indicates that conducting regional elections through the Regional People's Representative Council (DPRD) substantially reduces state and regional expenditures previously allocated to logistics, security, and honoraria for ad hoc election organizers in direct elections.<sup>35</sup> This fiscal efficiency enables the reallocation of budgetary resources to development programs that address fundamental community needs.<sup>36</sup> Furthermore, policy stability at the local level is enhanced, as the established synergy between the regional head and the DPRD from the nomination stage minimizes political deadlocks in the formulation of local regulations and budgets, which are frequently driven by conflicting political interests.

### **3. Eradicating Policy Criminalization: Safeguarding Executive Independence**

The third finding highlights that elections conducted through the Regional People's Representative Council (DPRD) can disrupt cycles of political corruption and excessive campaign expenditures that burden local government candidates. Lower political costs mean that elected regional heads are not financially beholden to donors or oligarchs, enabling policy decisions to prioritize the public interest without the threat of policy criminalization, which often arises from political agreements.<sup>37</sup> This process enhances the integrity of Indonesian democracy by ensuring that local leadership is determined by competence and deliberative capacity, rather than by the ability to mobilize substantial financial resources.<sup>38</sup>

The following table provides a comparative summary of the values associated with direct elections and those conducted through the Regional People's Representative Council (DPRD), as identified in this study:

**Tabel 1. Comparative Analysis of Regional Election Mechanisms**

<b>Indicators for Analysis</b>	<b>Direct Regional Elections</b>	<b>Regional Head Elections through the Regional People's Representative Council</b>
<b>Legitimacy under Law</b>	Article 18 of the 1945 Constitution	Article 18 of the 1945 Constitution

<sup>35</sup> Pirmansyah, Junaidi, and Merta, "Implications of Rescheduling the Direct Election of The Regional Head (PILKADA) of South Sumatra in The Midst of The Covid-19 Pandemic."

<sup>36</sup> Erlambang, "Polemik Pilkada Langsung Di Masa Pandemi Covid-19 dalam Prespektif Sosiologi Hukum."

<sup>37</sup> Nasir, "Analisis Hukum Penanganan Pelanggaran Adminitrasi Pemilu/Pemilihan."

<sup>38</sup> Riadhussyah et al., "The Dignity of Democracy in the Appointment of Acting Regional Heads by the President: Legal Construction After the Constitutional Court Decision Number 15/PUU-XX/2022."

<b>Costs of Administration</b>	Very High	Low
<b>Risks Associated with Political Financing</b>	High at the Grassroots Level	Potential at the Elite Level
<b>Quality of Policy</b>	Vulnerable to Financial Interference	More Independent & Stable
<b>Mechanisms for Conflict Resolution</b>	Complex & Prone to Polarization	Structured within the Regional Parliament

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Analysis of the table above demonstrates that, although direct regional elections are perceived as more participatory, elections conducted through the Regional People's Representative Council (DPRD) provide advantages in efficiency and public policy independence. The susceptibility of DPRD-based elections to elite-level money politics can be addressed by reinforcing political party integrity systems and enforcing rigorous public oversight.<sup>39</sup> These findings respond to legal concerns about the fate of popular sovereignty should the system revert to DPRD-based elections; sovereignty is not eliminated but is instead transformed into a more structured and cost-effective form, consistent with the principles of a democratic rule-of-law state.

These findings are particularly relevant in light of the background issues, which include public fatigue and increased state budget burdens resulting from problematic direct regional elections. This relevance is further underscored by the tendency for regional leaders elected through direct elections to become involved in corruption cases soon after taking office, often due to pressures to recoup campaign expenditures.<sup>40</sup> From a constitutional law perspective, elections via the Regional People's Representative Council (DPRD) provide regional heads with protection against the criminalization of policy decisions. Policies enacted by financially independent regional heads are likely to be more accountable and aligned with legal norms, rather than influenced by political obligations to external parties.<sup>41</sup>

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<sup>39</sup> Nasir, "Analisis Hukum Penanganan Pelanggaran Adminitrasi Pemilu/Pemilihan."

<sup>40</sup> Lubis, Eddy, and Mulyadi, "Penyidikan Tindak Pidana Pemilihan Umum Gubernur Dan Wakil Gubernur Sumatera Utara Tahun 2018."

<sup>41</sup> Nasir, "Analisis Hukum Penanganan Pelanggaran Adminitrasi Pemilu/Pemilihan."

From a legal perspective, policy criminalization often arises when administrative errors or unmet development targets are prosecuted amid unresolved political rivalries following direct regional elections. The DPRD mechanism facilitates leadership transitions within a more stable institutional framework, which reduces grassroots political hostility and the incidence of politically motivated criminal complaints.<sup>42</sup> This approach supports efforts to normalize central-regional relations by prioritizing effective governance over costly procedural democratic enthusiasm.<sup>43</sup>

Elections via the Regional People's Representative Council (DPRD) remain susceptible to political party oligarchy at the local level. Nevertheless, compared to the widespread damage caused by mass money politics in direct regional elections, the DPRD mechanism offers a more targeted and measurable oversight environment for supervisory institutions such as the Corruption Eradication Commission (KPK) and civil society. Strengthening political party integrity is an essential and non-negotiable prerequisite for reinstating this representative election system in Indonesia. That ensures transparency in the election process within the DPRD, such as the obligation to conduct public hearings for regional head candidates, broadcast live and open to public comment. Second, there must be strengthened legal sanctions for DPRD members and regional head candidates proven to have engaged in political money transactions during the election process. Third, future research should explore an asymmetric regional head election model where direct and indirect elections are applied based on each region's level of democratic maturity. In conclusion, the election of regional heads by the Regional People's Representative Council (DPRD) represents a constitutional, democratic, and strategic approach to safeguarding substantive popular sovereignty. By lowering political costs and minimizing the risk of policy criminalization, this system enables regional leadership to concentrate on development and public welfare. This transformation should be viewed not as regression, but as a deliberate effort to establish a more mature governance system aligned with Pancasila values and responsive to contemporary challenges.

## **C. CONCLUSION**

This study concludes that electing regional heads through the Regional People's Representative Council (DPRD) is a constitutionally valid mechanism that aligns with the

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<sup>42</sup> Riadhussyah et al., "The Dignity of Democracy in the Appointment of Acting Regional Heads by the President: Legal Construction After the Constitutional Court Decision Number 15/PUU-XX/2022."

<sup>43</sup> Kurnia, "Normalisasi Hubungan Pusat – Daerah Sesuai Konstitusi Presidensial."

"democratically elected" mandate of Article 18 of the 1945 Constitution, effectively preserving popular sovereignty through a representative framework. This indirect election model systematically mitigates the exorbitant political costs, grassroots money politics, and vulnerabilities to policy criminalization typically associated with direct regional elections, thereby safeguarding executive independence and fostering more stable local governance. Crucially, reinstating this system requires rigorous normative prerequisites, including stringent legal sanctions and robust public oversight mechanisms, to ensure transparency, ensure political party integrity, and prevent the entrenchment of political oligarchies. Ultimately, transitioning to DPRD-based elections should be viewed as a strategic constitutional adaptation aimed at establishing a more mature governance structure that balances procedural efficiency with substantive democratic legitimacy, reflective of Pancasila values.

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