

Juridical Implications of Indirect Regional Head Elections Through Regional People's Representative Councils: An Alternative Approach to Combating Electoral Vote Buying

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Abstract

This article examines the juridical implications of regional head elections through Regional People's Representative Councils as an alternative mechanism for addressing vote-buying practices in Indonesia. Persistent electoral corruption, high political costs, patronage networks, and transactional politics have raised concerns regarding the effectiveness of direct regional head elections in promoting democratic governance. The study aims to assess the constitutional legitimacy of Regional People's Representative based elections and evaluate their potential contribution to reducing vote buying while preserving democratic principles. Employing normative legal research, the analysis utilizes statutory, conceptual, and historical approaches through the examination of constitutional provisions, legislation, legal doctrines, and scholarly literature. The findings indicate that indirect regional head elections remain constitutionally permissible because Article 18 paragraph (4) of the 1945 Constitution requires regional heads to be elected democratically without mandating a specific electoral mechanism. However, the study also finds that indirect elections do not necessarily eliminate electoral corruption, as transactional practices may shift from voters to political elites within representative institutions. The article argues that electoral reform must balance constitutional validity, democratic legitimacy, public accountability, and popular sovereignty. This study contributes to constitutional law and socio-legal scholarship by clarifying the relationship between electoral design, democratic governance, and electoral corruption in Indonesia.

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INTRODUCTION

The Second Amendment to the 1945 Constitution of the Republic of Indonesia provides broad authority for regional autonomy through Article 18 paragraph (5) of the Constitution. One of the fundamental measures in realizing regional autonomy is the implementation of local elections to select regional heads. Regional head elections constitute a democratic instrument that places popular sovereignty as the primary source of legitimacy for regional leadership. In Indonesia, the implementation of regional head elections, commonly referred to as Pilkada, has

remained a subject of continuous public debate and controversy.¹ Historically, Indonesia has recognized two models of regional head elections: indirect elections, which were practiced during the early years of independence, and direct elections, which were introduced following the Reform Era.

The introduction of direct regional head elections in 2005 was expected to strengthen local democracy, reduce the dominance of political elites in regional governance, enhance the legitimacy of local governments, and encourage greater political participation among citizens. Direct elections were also perceived as a democratic mechanism that allowed citizens to choose their regional leaders after decades of centralized governance during the New Order regime, which provided limited opportunities for public involvement in leadership selection.² Through direct elections, citizens are able to determine their regional leaders directly, thereby reinforcing the principles of responsiveness and accountability, as regional heads are expected to be directly accountable to the electorate. However, in practice, direct regional head elections have frequently been characterized by vote buying, mass mobilization, high campaign expenditures, and the potential for horizontal social conflicts.

The escalating costs of political competition, the persistence of patronage networks, and weak supervisory mechanisms have enabled vote buying to develop into a structural phenomenon that is difficult to eradicate. Vote buying has the potential to undermine several essential dimensions of democratic quality, including voter participation, electoral transparency, and the credibility of Indonesia's democratic system.³ These challenges have revived discussions regarding the possibility of replacing direct regional head elections with indirect elections conducted through Regional People's Representative Councils, commonly referred to as the indirect election system. Proponents of this proposal argue that such a mechanism could reduce political expenditures and minimize vote-buying practices at the voter level.

The debate over indirect regional head elections reached a critical point in late 2014 during the administration of President Susilo Bambang Yudhoyono. On 25 September 2014, the House of Representatives convened a plenary session to deliberate and approve the Regional Election Bill. The proposal generated intense political debate among parliamentary factions, resulting in a voting process due to differing views regarding the appropriate electoral mechanism. The majority of members voted in favor of indirect regional head elections, leading to the enactment of Law Number 22 of 2014 on Regional Head Elections.⁴ Following its enactment, significant opposition emerged from various segments of society and political actors

¹ Ridho Al-Hamdi et al., "How to Mitigate Money Politics in the Electoral Contest? Impediment Detection, Bibliometrics Analysis and Proposed Design," *Cogent Social Sciences* 11, no. 1 (2025), <https://doi.org/10.1080/23311886.2025.2520446>.

² Amancik et al., "Choices of Law for Democratic Regional Head Election Dispute Resolution Institutions in Indonesia," *Jambura Law Review* 6, no. 2 (2024): 304–38, <https://doi.org/10.33756/jlr.v6i2.24792>.

³ Amiruddin and Rizki Ramadani, "Judicial Activism in Regional Head Election Dispute: The Practice and Consistency of The Indonesian Constitutional Court," *Substantive Justice International Journal of Law* 6, no. 1 (2023): 56–70, <https://doi.org/10.56087/substantivejustice.v6i1.230>.

⁴ Firdaus Arifin, "Reforming Indonesia's Electoral System: Legal and Policy Considerations," *Jambe Law Journal* 8, no. 1 (2025): 61–99, <https://doi.org/10.22437/home.v8i1.501>.

who viewed the indirect election model as a regression in democratic development. These groups urged the President to issue a Government Regulation in Lieu of Law, which subsequently resulted in the issuance of Perppu Number 1 of 2014. This regulation was later approved by the legislature and enacted as Law Number 1 of 2015, thereby restoring the direct election system.

Supporters of direct regional head elections argue that indirect elections diminish democratic values and weaken the principle of popular sovereignty. Conversely, advocates of indirect elections maintain that such a mechanism remains constitutionally valid and does not contradict the Indonesian constitutional framework. From a constitutional perspective, both direct and indirect regional head election systems can be considered legitimate. Nevertheless, the proposal to return to an indirect election model emerged largely as a response to the various negative consequences associated with direct elections, particularly the prevalence of vote buying, excessive political spending, and electoral conflicts.

The discourse surrounding the reintroduction of regional head elections through Regional People's Representative Councils continues to develop and remains a subject of both support and criticism. While the proposal is frequently presented as a potential solution to the persistent problem of vote buying, it simultaneously raises significant constitutional and legal concerns. These concerns relate to democratic principles, the legitimacy of political authority, and the possibility that transactional politics may merely shift from the broader electorate to political elites within representative institutions. Consequently, a comprehensive examination of the juridical implications of regional head elections conducted through Regional People's Representative Councils as an indirect election mechanism is necessary to assess its compatibility with Indonesia's constitutional order and democratic values.

This debate ultimately gives rise to a fundamental question: can a change in the mechanism of regional head elections effectively address the problem of vote buying, and what juridical implications would such a transformation have for Indonesia's constitutional and legal system?

METHODS

This study employs a normative legal research approach aimed at examining the juridical implications of regional head elections through Regional People's Representative Councils an alternative mechanism for addressing vote-buying practices in local elections.⁵ The research is theory-oriented and focuses on the analysis of legal norms, constitutional principles, and democratic values governing regional governance and electoral systems in Indonesia. Rather than relying on empirical field data, the study emphasizes doctrinal and conceptual examination of legal sources and scholarly discourse.

The primary subject of this research is the legal framework regulating regional head elections in Indonesia, particularly constitutional provisions, statutory regulations, and legal doctrines concerning democracy, regional autonomy, electoral systems, and political corruption.

⁵ Tatang M Amirin Christiani, "Normative and Empirical Research Methods: Their Usefulness in Legal Research," *Mimbar Hukum* 27, no. 2 (2015): 231–45, <https://doi.org/10.22146/jmh.15882>.

The study also examines the development of legal policies related to direct and indirect regional head elections, including legislative changes and constitutional debates that have emerged since the Reform Era.

The research procedure is conducted through a systematic review and analysis of legal materials.⁶ The inquiry begins with identifying the constitutional and statutory foundations governing regional head elections, followed by an examination of the theoretical concepts underlying democratic representation, popular sovereignty, and electoral integrity. Historical developments concerning the transition between direct and indirect election mechanisms are subsequently analyzed to understand the legal and political context of the debate. The findings are then evaluated through a critical legal analysis to assess the compatibility of indirect regional head elections with constitutional principles and their potential effectiveness in addressing vote-buying practices.

The study utilizes legal materials as its principal research instruments. Primary legal materials consist of the 1945 Constitution of the Republic of Indonesia, statutes governing regional government and regional head elections, government regulations, and other relevant legislative instruments. Secondary legal materials include academic books, peer-reviewed journal articles, legal commentaries, and scholarly opinions discussing constitutional law, electoral law, regional autonomy, and democratic governance. Tertiary legal materials comprise official reports, policy documents, legal dictionaries, news publications, and other supporting references that provide contextual information relevant to the research topic.

Data collection is carried out through library research.⁷ Legal materials are collected, classified, and reviewed according to their relevance to the research problem. Particular attention is given to sources addressing the constitutional legitimacy of indirect elections, the phenomenon of vote buying, and the relationship between electoral systems and democratic accountability.

Data analysis is conducted qualitatively using statutory, conceptual, and historical approaches. The statutory approach is employed to examine applicable legal norms regulating regional head elections. The conceptual approach is used to analyze legal doctrines and theoretical perspectives concerning democracy, representation, and electoral integrity. The historical approach is applied to trace the evolution of regional head election mechanisms and the legal reasoning underlying changes in electoral policy. Through these approaches, the study develops a systematic and critical legal argument regarding the juridical implications of implementing regional head elections through Regional People's Representative Councils as an alternative strategy to reduce vote-buying practices.

The scope of the analysis is limited to the constitutional and legal dimensions of indirect regional head elections and does not extend to empirical measurement of electoral behavior or quantitative assessment of vote-buying practices. Nevertheless, the normative approach is

⁶ Joao Maroco, "Research Design in Social Science Research: Methodological Considerations," *MethodsX* 8 (2021): 101457, <https://doi.org/10.1016/j.mex.2021.101457>.

⁷ William M K Lim, "What Is Qualitative Research? An Overview and Guidelines," *Australasian Marketing Journal* 33, no. 1 (2025): 1–25.

considered appropriate because the research seeks to evaluate the legal legitimacy, constitutional compatibility, and theoretical implications of electoral system reform within Indonesia's constitutional framework.

RESULTS AND DISCUSSION

A. Constitutional Interpretation of Democratic Regional Head Elections: Assessing the Legitimacy of Regional People's Representative Councils Based Electoral Mechanisms

Regional head elections occupy a strategic position within Indonesia's constitutional structure because they connect regional autonomy with democratic governance. Article 18 paragraph (4) of the 1945 Constitution stipulates that governors, regents, and mayors shall be elected democratically.⁸ The constitutional provision establishes democratic election as a mandatory principle while leaving the operational mechanism open to legislative determination. Constitutional debates consequently focus on the meaning of democratic election rather than on a constitutionally mandated electoral model.

The constitutional phrase "elected democratically" constitutes one of the most debated provisions in Indonesian constitutional law. Absence of explicit language requiring direct elections has generated diverse interpretations among scholars, legislators, and judicial institutions.⁹ One interpretation associates democracy with direct participation through popular voting. Another interpretation recognizes representative mechanisms as equally capable of expressing democratic values when conducted through institutions possessing electoral legitimacy.

Constitutional interpretation requires attention to the text, structure, and objectives of constitutional provisions. A textual reading of Article 18 paragraph (4) reveals no explicit requirement that citizens cast votes directly for regional heads. The provision emphasizes democratic selection rather than procedural uniformity.¹⁰ Such wording permits legislative discretion regarding institutional arrangements while maintaining adherence to democratic principles.

A systematic interpretation strengthens this conclusion. Several constitutional provisions recognize representative institutions as legitimate channels for exercising popular sovereignty. The constitutional system does not exclusively rely upon direct participation mechanisms. Representative democracy constitutes an essential component of Indonesia's constitutional order. Electoral mandates granted to legislative institutions create a legal basis for representative decision-making in public affairs.

Regional People's Representative Councils possess democratic legitimacy because members obtain office through periodic elections. Electoral authorization transforms Regional

⁸ Hesti Armiwulan, "Artificial Intelligence and Its Challenges to Elections in Indonesia: A Legal Analysis," *Jambura Law Review* 6, no. 2 (2024): 264–85, <https://doi.org/10.33756/jlr.v6i2.24243>.

⁹ Adithiya Diar, "Ultra Petita Practices in Regional Head Election Disputes before the Constitutional Court of Indonesia," *Jurnal Media Hukum* 33, no. 1 (2026): 1–20, <https://doi.org/10.18196/jmh.v33i1.27208>.

¹⁰ Adithiya Diar et al., "Money Politics in Indonesian Regional Election Disputes," *Jambe Law Journal* 9, no. 1 (2026): 159–203, <https://doi.org/10.22437/jlj.9.1.159-203>.

People's Representative Councils into an institution representing public interests within regional government. Representative authority enables Regional People's Representative Councils to participate in political decision-making processes, including matters concerning regional leadership.¹¹ Constitutional recognition of representative institutions therefore supports arguments favoring the legality of indirect regional head elections.

Historical development of regional governance demonstrates that Indonesia has experienced both direct and indirect electoral models. Regional heads were selected through representative institutions before the enactment of direct elections in 2005. Constitutional amendments did not expressly prohibit indirect elections. Legislative reforms introduced direct elections as a policy choice intended to strengthen local democracy rather than as a constitutional obligation imposed by the constitutional text itself.

Constitutional legitimacy nevertheless extends beyond formal legality. Democratic governance requires more than procedural compliance with statutory provisions. Legitimacy also depends upon public participation, accountability, transparency, and responsiveness. These values shape contemporary understandings of democratic government and influence constitutional assessment of electoral institutions.¹² Electoral systems therefore require evaluation according to their capacity to protect democratic principles.

Direct regional head elections strengthen political participation by allowing citizens to select executive leaders without intermediary actors. Electoral participation creates a direct relationship between voters and candidates. Citizens evaluate political programs, leadership qualities, and public commitments before making electoral choices. Such participation enhances democratic engagement and reinforces perceptions of political ownership among local communities.

Indirect elections transfer decision-making authority from voters to representative institutions. Political competition consequently occurs within legislative arenas rather than public electoral contests. Supporters argue that representative selection remains democratic because elected legislators act on behalf of constituents.¹³ Critics question whether representative decision-making adequately reflects public preferences when citizens lack direct influence over the final selection of regional leaders.

Popular sovereignty remains a central constitutional principle in evaluating indirect electoral mechanisms. Constitutional theory generally recognizes two methods for exercising sovereignty: direct participation and representative institutions. Neither model automatically guarantees democratic outcomes. Democratic quality depends upon institutional design, procedural integrity, and accountability structures. Constitutional analysis therefore requires

¹¹ Puspaningrum Puspaningrum and Agatha Jumiati, "The Values of Pancasila Democracy in Direct Regional Head Elections," *Indonesian Journal of Law and Justice* 2, no. 4 (2025), <https://doi.org/10.47134/ijlj.v2i4.4118>.

¹² Marlina Flassy, "Implementing Constitutional Court Decisions: Revising Indonesia's 2024 Regional Head Election Law," *PETITA* 10, no. 1 (2025), <https://doi.org/10.22373/petita.v10i1.732>.

¹³ Martin Lundstedt and Amanda B Edgell, "Electoral Management and Vote-Buying," *Electoral Studies* 79 (2022), <https://doi.org/10.1016/j.electstud.2022.102500>.

examination of substantive democratic performance rather than exclusive reliance on electoral form.

Comparative constitutional practice demonstrates considerable variation in regional executive selection. Several democratic states employ indirect mechanisms through legislative institutions while maintaining democratic legitimacy. Constitutional acceptance of representative selection generally depends upon transparent procedures, effective oversight mechanisms, and meaningful accountability arrangements. International experience suggests that indirect elections are not inherently incompatible with democratic governance.

Transparency represents a particularly important requirement for indirect electoral systems. Closed political negotiations may create opportunities for elite domination and transactional politics. Public confidence depends upon openness in candidate nomination, legislative deliberation, and voting procedures. Democratic legitimacy weakens when political processes operate beyond meaningful public scrutiny. Institutional safeguards therefore become essential components of constitutional design.

Accountability considerations also influence constitutional evaluation. Direct elections establish a clear accountability relationship between elected officials and voters. Indirect elections create more complex accountability structures involving political parties, legislative actors, and representative institutions. Constitutional legitimacy requires mechanisms capable of ensuring that regional leaders remain responsive to public interests rather than narrow political coalitions.

Debates regarding regional head elections ultimately reflect competing constitutional priorities. One approach emphasizes efficiency, institutional stability, and representative governance. Another approach prioritizes direct participation, electoral inclusion, and immediate public control over political leadership. Neither objective possesses absolute constitutional superiority. Constitutional interpretation requires reconciliation of these values through legal reasoning consistent with democratic principles and constitutional objectives.

Future discussions concerning Regional People's Representative Councils based regional head elections should therefore focus not merely on procedural alternatives but also on democratic quality. Constitutional permissibility alone cannot determine institutional desirability. Evaluation must consider legitimacy, accountability, transparency, political participation, and protection of popular sovereignty. A constitutionally acceptable electoral mechanism should preserve democratic integrity while ensuring effective regional governance within Indonesia's constitutional framework.

B. Indirect Regional Head Elections as an Anti-Vote Buying Strategy: Juridical Consequences for Democratic Governance and Political Accountability

Vote buying remains one of the most persistent challenges affecting the quality of local democracy in Indonesia. Electoral competition frequently involves substantial financial expenditures, extensive campaign operations, political brokerage networks, and various forms of material inducement directed toward voters.¹⁴ Such practices weaken electoral integrity and

¹⁴ Ward Berenschot, "The Political Economy of Clientelism in Indonesia," *Critical Asian Studies* 50, no. 4 (2018): 582–604, <https://doi.org/10.1080/14672715.2018.1506932>.

undermine the principle that political authority should originate from genuine public preference. Concerns regarding these conditions have revived discussions concerning alternative electoral mechanisms capable of reducing opportunities for electoral corruption.

Direct regional head elections were originally introduced to strengthen democratic participation and enhance governmental legitimacy. Public expectations focused on greater accountability, stronger citizen involvement, and improved responsiveness of regional leaders. Practical experience, however, has revealed numerous challenges accompanying direct electoral contests. Rising campaign expenditures, increasing dependence on financial resources, and widespread transactional politics have generated concerns regarding the sustainability of the current electoral model.

Electoral campaigns require considerable financial commitments throughout the nomination and competition process. Candidates often invest significant resources in campaign teams, political advertising, logistical arrangements, mass mobilization, and voter outreach activities.¹⁵ Financial burdens frequently exceed official campaign limitations. Such conditions encourage dependence upon wealthy supporters, business interests, and political financiers seeking future political or economic advantages.

Political dowries represent another important concern within regional electoral contests. Nomination processes commonly require support from political parties possessing legislative representation. Candidate selection frequently becomes associated with financial bargaining and informal political agreements. These arrangements increase entry barriers for prospective candidates and reinforce the perception that political office requires substantial financial capital rather than public trust or leadership competence.

Supporters of indirect regional head elections argue that representative selection could reduce several sources of electoral expenditure. Absence of mass campaigns would decrease promotional costs, voter mobilization expenses, and large-scale campaign operations. Administrative expenditures associated with election management would also decline significantly.¹⁶ Financial efficiency therefore constitutes one of the principal arguments supporting the restoration of Regional People's Representative Councils based electoral mechanisms.

Advocates further contend that indirect elections may reduce direct interaction between candidates and large numbers of voters. Opportunities for vote buying through cash transfers, gifts, and material incentives could become less prevalent because electoral competition would occur within representative institutions rather than through mass electoral campaigns. Such expectations position indirect elections as a potential strategy for limiting certain forms of electoral corruption.

¹⁵ Diego Fossati, "The Resurgence of Ideology in Indonesia: Political Islam, Aliran and Political Behaviour," *Journal of Current Southeast Asian Affairs* 38, no. 2 (2019): 119–48, <https://doi.org/10.1177/186810341903800206>.

¹⁶ Aurel Croissant and Olli Hellmann, "Challenges to Democratic Governance in Southeast Asia," *Asian Journal of Comparative Politics* 3, no. 3 (2018): 195–210, <https://doi.org/10.1177/2057891118788188>.

Questions regarding effectiveness nevertheless remain unresolved. Political corruption frequently adapts to institutional change rather than disappearing entirely. Electoral incentives continue to exist regardless of procedural modifications.¹⁷ Political actors seeking office may redirect resources toward alternative channels capable of influencing decision-making processes. Institutional redesign alone therefore cannot guarantee the elimination of transactional political behavior.

Historical experience suggests that indirect elections may shift corrupt practices from public arenas toward elite political circles. Financial transactions directed toward a limited number of decision makers often become more difficult to detect and investigate.¹⁸ Legislative actors possess significant influence over electoral outcomes under representative selection models. Concentration of decision-making authority consequently creates incentives for elite-centered political bargaining.

Elite capture represents a major concern associated with indirect electoral systems. Political parties and legislative coalitions may acquire greater control over candidate selection and electoral outcomes. Competitive political processes become increasingly dependent upon negotiations among political elites.¹⁹ Public influence over leadership selection decreases substantially when final decisions remain concentrated within representative institutions.

Democratic legitimacy constitutes another important issue requiring careful examination. Direct elections create an immediate relationship between voters and elected officials. Citizens participate directly in determining political leadership through electoral choice. Indirect elections replace this relationship with a representative mechanism in which legislative institutions act as intermediaries.²⁰ Such arrangements may generate questions regarding the strength of public consent underlying governmental authority.

Public accountability may also experience significant transformation under an indirect electoral framework. Directly elected regional heads generally maintain strong incentives to respond to public demands because future electoral success depends upon voter evaluation. Representative selection creates a different accountability structure.²¹ Political survival may become more closely linked to legislative support and party interests than to public satisfaction.

Constitutional implications extend beyond democratic legitimacy and accountability. Implementation of indirect regional head elections would require substantial revisions to existing electoral legislation and regional governance regulations. Legal provisions governing candidate nomination, electoral procedures, oversight mechanisms, dispute resolution, and anti-

¹⁷ Allen Hicken and Nicholas Long, "Vote Buying and Political Clientelism," *Annual Review of Political Science* 24 (2021): 315–34, <https://doi.org/10.1146/annurev-polisci-041719-102912>.

¹⁸ Eve Warburton and Edward Aspinall, "Explaining Indonesia's Democratic Regression," *Contemporary Southeast Asia* 41, no. 2 (2019): 255–85.

¹⁹ Marcus Mietzner, "Authoritarian Innovations in Indonesia," *Democratization* 27, no. 6 (2020): 1021–36, <https://doi.org/10.1080/13510347.2019.1704266>.

²⁰ Vedi R Hadiz, "Indonesia's Year of Democratic Setbacks," *Bulletin of Indonesian Economic Studies* 53, no. 3 (2017): 261–78, <https://doi.org/10.1080/00074918.2017.1363702>.

²¹ Marcus Mietzner, "Fighting Illiberalism with Illiberalism: Islamist Populism and Democratic Deconsolidation in Indonesia," *Pacific Affairs* 91, no. 2 (2018): 261–82.

corruption enforcement would require comprehensive adjustment. Legislative reform would therefore become a prerequisite for institutional transition.

Institutional relationships between regional executives and legislative bodies would also undergo significant change. Regional heads elected through Regional People's Representative Councils may depend heavily upon legislative support throughout their tenure. Such dependence could strengthen legislative influence over executive policymaking and budgetary decisions. Political bargaining between executive and legislative institutions might consequently become more intensive and more frequent.

Risks associated with political oligarchy require particular attention. Greater concentration of electoral authority within political parties and legislative institutions may reduce opportunities for broader political participation. Independent political figures could encounter greater obstacles in accessing leadership positions. Competitive political recruitment may become increasingly restricted to individuals possessing strong connections with dominant political actors and party elites.

Assessment of indirect regional head elections ultimately requires consideration of both anti-corruption objectives and democratic principles. Reduction of vote buying represents an important public interest; however, electoral reform should not compromise political participation, accountability, transparency, or popular sovereignty. Juridical evaluation therefore requires a balanced examination of constitutional values, democratic legitimacy, institutional effectiveness, and electoral integrity. Sustainable solutions to electoral corruption depend not only upon procedural change but also upon strengthening democratic institutions and legal enforcement mechanisms.

CONCLUSION

Regional head elections through Regional People's Representative Councils remain constitutionally permissible because Article 18 paragraph (4) of the 1945 Constitution requires regional heads to be elected democratically without expressly mandating direct elections. Constitutional legitimacy therefore depends upon compliance with democratic principles, transparency, accountability, and popular sovereignty rather than upon a particular electoral mechanism. Although indirect elections may reduce certain forms of vote buying and lower electoral costs, such a system does not necessarily eliminate transactional politics, as corrupt practices may shift toward political elites and legislative institutions. Significant juridical consequences would also arise, including changes in executive-legislative relations, democratic accountability, and regional governance structures. Any proposal to reintroduce Regional People's Representative Councils based regional head elections should therefore prioritize the preservation of democratic legitimacy, electoral integrity, and constitutional values while addressing the structural causes of vote-buying practices in Indonesia.

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