

Decolonizing Constitutional Democracy: Reconfiguring Indonesia's Presidential Election System from the Perspective of *Siyasah Syar'iyah*

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Abstract

This study aims to reassess the Indonesian presidential electoral system within the context of postcolonial liberal democracy and to propose an alternative democratic framework rooted in the values of *siyasah syar'iyah* (Islamic political governance) as part of the decolonization of Islamic politics. The main issues addressed include presidential conflicts of interest during election campaigns, weak electoral oversight institutions, and regulatory ambiguities that allow ethical distortions in democratic practices. The research adopts a normative-juridical approach combined with a conceptual analysis of *siyasah syar'iyah*. Data were collected through the examination of electoral laws, academic literature, and classical Islamic political thought such as *Al-Ahkam al-Sultaniyyah*, *Siyasah Syar'iyah*, and *Al-Muwafaqat*. A qualitative juridical analysis was employed to evaluate the alignment between positive legal norms and the principles of Islamic governance. The findings reveal a fundamental misalignment between Indonesia's electoral practices and the core Islamic political values of justice (*adl*), integrity (*amanah*), and public welfare (*maslahah*). The phenomenon of presidential intervention in campaigns (*cawe-cawe*) signifies an ethical leadership crisis, legitimized by vague regulations and weak institutional checks. The study recommends the reconfiguration of Articles 281, 282, and 299 of Law No. 7/2017 as a normative measure to enforce political neutrality and prevent abuse of power. Theoretically, this research contributes to the discourse on decolonization in Islamic political studies and constitutional law. The *siyasah syar'iyah* framework provides a more substantive and contextually grounded ethical paradigm than liberal democratic proceduralism and offers a pathway for integrating Islamic values into modern Indonesian political systems.

Keywords: *Islamic political decolonization, presidential elections, siyasah syar'iyah, presidential intervention, political neutrality, legal reform.*

Introduction

Indonesia's presidential electoral system to date has been built on a foundation of constitutional democracy that has been heavily influenced by Western political models, particularly the postcolonial liberal democratic system. ¹Although this model carries the spirit of popular sovereignty and the rule of law, in

¹ Jeremy Menchik, "Crafting Indonesian Democracy: Inclusion-Moderation and the Sacralizing of the Postcolonial State," in *Democratic Transition in the Muslim World: A Global Perspective*, ed. by Alfred Stepan (Columbia

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practice it is often less contextually relevant in Indonesian society which is religious, collective and has its own normative value system.² This raises the urgent need for decolonization in political studies - that is, the liberation of political discourse from colonial epistemological dominance towards a value-based approach and ethical system typical of Indonesian society.³ In line with this, the *siyasah shar'iyah* or Islamic political governance approach offers significant contributions through principles such as *al-'adl* (justice), *al-maslahah* (public good), *amanah* (leadership integrity), and *mas'uliyah* (public accountability).

Decolonizing political Islam in the context of democracy is an important discourse to dismantle the colonial legacy that shapes the modern political system of Muslim countries, including Indonesia. Samaras points out that Islam is often positioned as a threat in Western liberal democracy, even though this narrative itself was born from a colonial construction that marginalizes Islam from the democratic public sphere.⁴ In a similar context, Mohammad Musfequs Salehin emphasizes the need for democratization rooted in Islamic values such as *shura* and *maslahah*, rather than simply adopting liberal democratic procedures.⁵ An-Na'im even offers a model of civil secularism where sharia is practiced in society, not through the state, as a form of liberation from colonial political control.⁶ Meanwhile, Ismail criticizes the way the modern state constructs political Islam technocratically and emphasizes the importance of restoring ethics and spirituality in Islamic politics.⁷ These four studies collectively highlight that the decolonization of Islamic politics is not simply a critique of Western systems, but also a creative attempt to reconfigure democracy based on ethical, participatory and spiritual values rooted in Islamic tradition.

This Islamic political decolonization approach does not reject democracy absolutely, but proposes a rearrangement of the electoral system that is more oriented towards substantive ethics than just electoral proceduralism. Syukur et al. emphasized that the understanding of democracy and *shura* in wasathiyah da'wah reflects the great potential of Islamic value-based democratic integration.⁸ In the global context, Dupret highlighted the challenges of Muslim-majority countries in adjusting the constitutional democratic system with sharia law,⁹ while Jubba et al. noted the diverse responses of Muslim-majority countries to Islamic parties as an indicator of the limitations of the liberal democratic model in accommodating religious

University Press, 2018), 163-200, <https://www.degruyterbrill.com/document/doi/10.7312/step18430-011/html>; Muhamad Ali, "Categorizing Muslims in Postcolonial Indonesia," *Moussons. Recherche En Sciences Humaines Sur l'Asie Du Sud-Est*, no. 11 (December 1, 2007): 33-62, <https://doi.org/10.4000/moussons.1746>; Martin Ramstedt, "Politics of Taxonomy in Postcolonial Indonesia: Ethnic Traditions between Religionization and Secularization," *Historical Social Research / Historische Sozialforschung* 44, no. 3 (169) (2019): 264-89.

² Azlan Tajuddin, "Development, Democracy, and Post-Islamism in Indonesia," *International Journal of Social Science Studies* 4 (2016): 41; Azyumardi Azra, *Indonesia, Islam, and Democracy: Dynamics in a Global Context* (Equinox Publishing, 2006).

³ Robert W. Hefner, *Civil Islam: Muslims and Democratization in Indonesia* (Princeton University Press, 2011); Imam Yahya and Sulistiyono Susilo, "Conservative Muslims in Indonesia's religious and political landscapes: Ahok's blasphemy case as a political leverage," *Cogent Social Sciences* 10, no. 1 (December 31, 2024): 2392293, <https://doi.org/10.1080/23311886.2024.2392293>; Jeremy Menchik, *Islam and Democracy in Indonesia: Tolerance without Liberalism* (Cambridge University Press, 2016).

⁴ Georgios Samaras, "Battleground Europe: The Rise of Anti-Woke Movements and Their Threat to Democracy," *Frontiers in Political Science* 7 (May 9, 2025), <https://doi.org/10.3389/fpos.2025.1568816>.

⁵ Mohammad Musfequs Salehin, "Democracy and Islam: A Tale of Democratic Struggle in a Muslim Majority State," January 1, 2013, <https://doi.org/10.1163/22131418-00101005>.

⁶ Menchik, "8. CRAFTING INDONESIAN DEMOCRACY"; Abdullahi Ahmed An-Na'im, *Islam and the Secular State: Negotiating the Future of Shari'a* (Harvard University Press, 2009), <https://doi.org/10.4159/9780674033764>.

⁷ Salwa Ismail, *Rethinking Islamist Politics: Culture, the State and Islamism* (London: I.B. Tauris, 2006).

⁸ Abdul Syukur et al., "Empowering Islamic Community In Understanding Democracy And Shura Through The Wasathiyah Da'Wa Movement In Indonesia," *JOURNAL OF INDONESIA ISLAM* 18, no. 1 (June 9, 2024): 98-126, <https://doi.org/10.15642/JIIS.2024.18.1.98-126>.

⁹ Baudouin Dupret, "The relationship between constitutions, politics, and Islam: a comparative analysis of the North African countries," *Constitutionalism, human rights, and Islam after the Arab spring*, 2016, 233-44.

values.¹⁰ Therefore, the idea of reconfiguring Indonesia's presidential election system through the framework of *siyasah shari'iyah* is not only a normative alternative, but also a strategic step in efforts to decolonize democracy rooted in the historical, sociological and spiritual character of the Indonesian nation.

Problems in Indonesia's electoral system become more complex when political practices show a crisis of leadership ethics. One of the most obvious symptoms of this distortion of democracy is the phenomenon of *cawe-cawe*, namely the active involvement of the President in the electoral campaign process. Within the framework of liberal democracy, the President's neutrality has normatively been regulated through various regulations, such as Article 17 and Article 42 of Law Number 30 of 2014 concerning Government Administration, as well as Article 71 of Law Number 10 of 2016 which expressly prohibits state officials from taking actions that benefit or harm one of the candidate pairs.¹¹ Similar topics are also contained in Article 282 and Article 283 of Law Number 7 Year 2017¹² and Regulation of the General Election Supervisory Board Number 11 Year 2023 where the campaign prohibition is clarified to include meetings, invitations, appeals, and calls to the public.¹³ However, in practice, overlaps between legal norms and public ethics often occur. The president as head of state and head of government is often caught in a dilemma between state functions and practical political interests. This phenomenon reflects not only a leadership crisis, but also the failure of procedural liberal democracy to instill ethical integrity in the political process.

Nevertheless, the President as an individual affiliated with a particular political party or candidate also has the political right to support the campaign process of the candidate that has been previously supported. The narrative argument is *expressively verbis* enshrined in Article 15 paragraph (2) of Law Number 2/2008 which emphasizes that members of political parties have the right to determine policies and the right to elect and be elected.¹⁴ Article 299 paragraph (1) of Law Number 7 of 2017 and Article 30 of Government Regulation Number 32 of 2018 also provide the same legalization, provided that the campaign process is carried out during the leave period and does not use state facilities. The form of confusion in campaign regulations has resulted in several requests and pressure on the Constitutional Court to immediately issue a decision regarding the prohibition of the President's participation or in Javanese known as *cawe-cawe* in the campaign. The arrears of cases of disputes over the Presidential Elections from 2019 to 2024 were all rejected by the Constitutional Court,¹⁵ starting from Decision Number 10/PUU-XVII/2019, Decision Number 166/PUU-XXI/2023, to Decision Number 55/PUU-XXII/2024 which resulted in the unavailability of a decision with causality related to the President's campaign that is just based on the current regulations in Indonesia.

The phenomenon of Presidential participation in campaigns began to be recognized from President Joko Widodo's (Jokowi) stance in the 2024 elections.¹⁶ Attention to this issue increased after President

¹⁰ Hasse Jubba et al., "How Do Muslim-Majority Countries Respond to Islamic Political Parties? Research Trend Studies and Theme Mapping," *Authority: Journal of Government Science* 12, no. 2 (October 31, 2022): 108–27, <https://doi.org/10.26618/ojip.v12i2.8152>.

¹¹ "Law Number 10 of 2016 on the Second Amendment to Law Number 1 of 2015 on the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 on the Election of Governors, Regents, and Mayors into Law (State Gazette of the Republic of Indonesia of 2016 Number 130, Supplement to State Gazette of the Republic of Indonesia Number 5898)," 2016.

¹² "Law Number 7 of 2017 on General Elections (State Gazette of the Republic of Indonesia of 2017 Number 182, Supplement to the State Gazette of the Republic of Indonesia Number 6109)," n.d..

¹³ 'Regulation of the General Election Supervisory Board of the Republic of Indonesia Number 11 of 2023 concerning Supervision of General Election Campaigns'.

¹⁴ 'Law of the Republic of Indonesia Number 2 of 2008 on Political Parties (State Gazette of the Republic of Indonesia of 2008 Number 2, Supplement to State Gazette of the Republic of Indonesia Number 4801),' n.d..

¹⁵ "Constitutional Court Rejects All 2024 Presidential Election Dispute Challenges, What are the Dissenting Opinions of the Three Judges?" *BBC News Indonesia*, April 22, 2024, <https://www.bbc.com/indonesia/articles/c0kl1jwkr2ko>.

¹⁶ Muhammad Rais Rahmat Razak, Andi Astinah Adnan, and Affandi Agusman Aris, "Governance of Presidential Elections: Dynasty Politics and Institutional Ethics," *Journal of Governance and Public Policy* 12, no. 1 (February 2025): 60, <https://doi.org/10.18196/jgpp.v12i1.22082>.

Jokowi's eldest son, Gibran Rakabuming Raka, decided to run as a Vice Presidential Candidate paired with Prabowo Subianto.¹⁷ At the beginning of 2023, President Jokowi said that he would not intervene in the election process,¹⁸ but his attitude changed at the end of May 2023 in a meeting with national mass media leaders and *podcasters*, the President openly stated that he would *participate* in the 2024 elections.¹⁹ The phenomenon of the President's *cawe-cawe* continued, precisely at the end of 2024 through a video upload that attracted public attention from the Instagram account *@luthfiyasinofficial* with the broadcast of direct support from the President of the Republic of Indonesia elected for the period 2024-2029, Prabowo Subianto for the Candidate Pair for Governor and Deputy Governor of Central Java, Ahmad Luthfi and Taj Yasin²⁰ and support for Banten Governor Candidate, Andra Soni.²¹ Variations of support were also published through President Prabowo's instruction letter as Chairman of the Gerindra Party to support Ridwan Kamil and Suswono for the Jakarta Regional Election in 2024.²²

It is in this context that the urgency of *decolonizing Islamic politics* becomes very relevant. Indonesia's current democracy is still shaped by a postcolonial framework that makes procedures the main benchmark of legitimacy, while the ethical and moral dimensions of leadership - which are actually very central in the Islamic political tradition - are ignored. *The siyasah shar'iyah* approach as a form of Islamic political ethics offers a correction to this model by placing values such as *trustworthiness* (leadership integrity), *mas'uliyah* (public accountability), and *al-'adl* (justice) as the basis of leadership, not just administrative legality.²³ In the logic of *siyasah shar'iyah*, the partiality of the ruler in political contestation is a form of violation of the principle of *hisbah* (moral supervision), which requires leaders to maintain the public interest fairly and honestly.²⁴ The phenomenon of Presidential interference in elections in recent decades has been glimpsed by Steven Levitsky and Daniel Ziblatt in the book *How Democracies Die* with the view that in this modern era, the weakening of a country's democracy no longer uses war methods that mobilize soldiers and generals, but is caused by the Government as a result of elections.²⁵ Furthermore, Levitsky and Ziblatt warn that the use of executive power to support certain candidates can be part of the process of *erosion of democracy*,²⁶ namely the gradual decline of democracy.

¹⁷ Saipul Hamdi et al., "Drama, Maneuvering and Political Cawe-Cawe Ahead of the 2024 Presidential Election," *GOVERNANCE: Scientific Journal of Local Politics and Development Studies* 10, no. 4 (June 2024): 190, <https://doi.org/10.56015/gjklp.v10i4.221>.

¹⁸ Dian Erika Nugraheny and Sabrina Asril, 'Kaleidoscope 2023: Jokowi's Cawe-cawe Notes Ahead of the 2024 Election', *KOMPAS.com*, December 2023, <https://nasional.kompas.com/read/2023/12/28/13560181/kaleidoskop-2023-catatan-cawe-cawe-jokowi-jelang-pemilu-2024?page=all>.

¹⁹ R. Arie Febrianto, Didik Nugroho, and Suryanti Galuh Pravitasari, "President Jokowi's Interference or Cawe Cawe Regarding the 2024 Presidential Election as the Implementation of the Fourth Precept of the First Point Related to Information Technology," *Rampai Jurnal Hukum* 2, no. 2 (November 2023), <https://doi.org/10.35473/rjh.v2i2.2591>.

²⁰ Prabowo's Support for Ahmad Luthfi and Taj Yasin', n.d., <https://www.instagram.com/stories/highlights/18025997840203579/>.

²¹ Nabilah Safirah, 'Video Appears of Prabowo Supporting Andra Soni in Banten Election', *Kompas.com*, November 23, 2024, <https://www.youtube.com/watch?v=q6TpEzklKFE>.

²² Eiben Heizar, "Prabowo's Support Letter to Ridwan Kamil-Suswono, How Do Various Parties Respond?", *Tempo.co*, November 27, 2024, <https://www.tempo.co/politik/surat-dukungan-prabowo-ke-ridwan-kamil-suswono-bagaimana-tanggapan-berbagai-pihak--1173645>.

²³ Ashari Ashar et al., "The Factors Causing the Emerging of Transactional Politics in the Local Election in East Kalimantan 2005 From the Perspective of *Siyasah Syar'iyah*," *Al-'Adalah* 17, no. 1 (November 30, 2020): 97–110, <https://doi.org/10.24042/adalah.v17i1.6633>.

²⁴ Iqbal Katrino and Yus Afrida, "People's Sovereignty in the Presidential Threshold System in the Perspective of *Siyasah Al-Syari'yyah*," *El-Mashlahah* 11, no. 2 (2021): 187–204; Umarwan Sutopo, Achmad Hasan Basri, and Hilman Rosyidi, "Presidential Threshold in the 2024 Presidential Elections: Implications for the Benefits of Democracy in Indonesia," *Justicia Islamica* 21, no. 1 (June 25, 2024): 155–78, <https://doi.org/10.21154/justicia.v21i1.7577>.

²⁵ Steven Levitsky and Daniel Ziblatt, *How Democracy Dies: What History Reveals about Our Future*, ed. Zia Anshor, 6th ed. (Jakarta: PT Gramedia Pustaka Utama, 2022), xi.

²⁶ *Erosion of democracy* is a term used in the book *How Democracies Die* that describes the condition of democracy that is deteriorating step by step without even being realized by the people of a country.

In this context, this study is present to deconstruct the Indonesian electoral system from the perspective of *siyasah shar'iyah* as part of the decolonization agenda of constitutional democracy. Elections are not merely a process of collecting votes, but must be understood as a moral-political process that requires integrity, accountability and orientation towards public welfare. Following the thoughts of Ibn Khaldun, power that is not exercised with the principles of justice will transform into *istibdad* (tyranny),²⁷ and this has the potential to undermine the legitimacy of the democratic system from within. Through the integration of Islamic political values into the structure and norms of Indonesian democracy, this paper offers a conceptual effort to build a more ethical, dignified and contextualized presidential election system. This reconfiguration is expected to be able to balance the President's personal political rights and institutional moral obligations, and make elections not only legally valid, but also shar'i fair.

Method

This research uses a juridical-normative approach combined with the perspective of *siyasah shar'iyah* as the main analytical framework.²⁸ This approach aims to examine the legal norms governing the Presidential Election system in Indonesia and reconstruct the system through the lens of Islamic Shari'ah values oriented towards public benefit (*maslahah 'ammah*). The study is conducted by combining a legislative approach, to examine regulations related to Presidential Elections both from the constitutional aspect and their implementation in the Indonesian democratic system, and a conceptual approach, to explore theories of democracy, constitutionalism, and principles in *siyasah shari'iyah* such as *shura*, *al-maslahah*, and *maqashid al-shariah*. The sources of legal materials consist of primary legal materials such as the 1945 Constitution and the Election Law, secondary legal materials in the form of scientific literature, academic journals, and relevant classical and contemporary books such as *Al-Ahkam al-Sultaniyyah* by Al-Mawardi, *Siyasah al-Shar'iyah* by Ibn Taymiyyah, *Al-Mustasfa* by Al-Ghazali, and *Al-Munafaqat* by Al-Syatibi, which are important references in exploring Islamic constitutional principles. The method of analysis used is juridical-qualitative analysis, which aims to interpret legal norms and theoretical principles descriptively and argumentatively. The analysis process is carried out by identifying elements of the Presidential Election system that show the influence of colonial heritage and Western liberal democracy, assessing its compatibility with the principles of justice in *siyasah shar'iyah*, and offering an alternative model of the Election system that is more in line with Islamic values and the reality of the Indonesian constitution.

Result and Discussion

Decolonizing Political Islam in Indonesia

The decolonization of Islamic politics in Indonesia is an effort to free the structure of thinking, the state system, and the political practices of Muslims from the colonial legacy that is still rooted today. Although Indonesia formally became independent in 1945, as Harry J. Benda asserts in *Decolonization in Indonesia: The Problem of Continuity and Change*, Indonesia's decolonization reflects more continuity than fundamental change, especially in administrative structures, laws, and power paradigms that remain colonial. This legacy also permeates Indonesia's system of procedural democracy, in which religion is strictly separated from the public and political spheres, a model that has no roots in local culture or Islamic tradition.²⁹

²⁷ Igor Alekseev, "Between Ibn Khaldun and Ibn Taymiyya: In Search of an Explanatory Paradigm of 2011's Arab Revolutions," *Islamology* 4, no. 1 (March 2, 2011): 90–113, <https://doi.org/10.24848/islm1g.04.1.06>.

²⁸ Suyanto, *Legal Research Methods Introduction to Normative, Empirical and Combined Research* (Gresik: UNIGRES PRESS, 2023); Mike McConville, *Research Methods for Law* (Edinburgh University Press, 2017); Edward L. Rubin, "Law and the Methodology of Law," *Wisconsin Law Review* 1997 (1997): 521.

²⁹ Harry J. Benda, "Decolonization in Indonesia: The Problem of Continuity and Change," *The American Historical Review* 70, no. 4 (1965): 1058–73, <https://doi.org/10.2307/1846903>.

In this context, the decolonization of Islamic politics does not mean rejecting democracy, but rather reconfiguring the political system to be more in line with the values of *siyasah shar'iyah*, such as *shura* (deliberation), *al-maslahah* (public good), and *maqashid al-shariah* (the ethical goals of sharia). This is in line with Henk Schulte Nordholt's criticism in his article *Indonesia in the 1950s*, that postcolonial modernization projects in Indonesia tend to adopt the European nation-state model without indigenizing local and religious values.³⁰ In fact, classical and contemporary Islamic political thought, as contained in the works of *Al-Ahkam al-Sultaniyyah* (Al-Mawardi),³¹ *Siyasah al-Shar'iyah* (Ibn Taymiyyah),³² and *Al-Muwafaqat* (Al-Syatibi),³³ provide a normative framework for building a just, participatory and moral state - which can be an alternative or counterweight to the liberal-secular model of the colonial legacy.

The decolonization of Islamic politics in Indonesia must be understood within a postcolonial global framework, where the ummah is not only grappling with domestic issues, but also facing the challenges of an international system rooted in Euro-American centrism. In this context, Islam as a civilization that is deeply embedded in the Indo-Pacific region seeks to maintain its existence in the midst of a nation-state model that marginalizes spiritual, ethical and communal values.³⁴ N. Bootsma, in his research *The Discovery of Indonesia*, also shows how Western historiography often places decolonization as a narrative of victory over physical oppression, without exploring the depth of the epistemic trauma that occurred. In this context, political Islam that is reduced to the private sphere, or even suspected when it enters the public sphere, is a reflection of the remnants of epistemological colonialism. True decolonization must include liberating the way Islam is viewed - not as the "other" in democracy, but as a source of values and ethical principles that shape equitable political structures.³⁵

However, Islamic political thought is often left out of the procedurally and legalistically shaped democratic system, as criticized by Henk Schulte Nordholt, who argues that Indonesia's post-independence modernization project tends to imitate the European state form without involving local values or public spirituality. The Ummah also experienced epistemic alienation, where they were positioned as "the other" in the narrative of modern statehood.³⁶ In practice, this is manifested in the restriction of the role of religion in the public sphere, the marginalization of Islamic symbols in politics, and the dominance of secular discourse in nation-building.

This shows that true decolonization has not yet taken place. As shown in the work *Revolutionary Worlds*,³⁷ the struggle against colonialism does not end with the declaration of independence, but continues in the form of a struggle to build an authentic and liberating socio-political system. In this case, Islam is not just a cultural heritage, but also an alternative source of epistemology that can challenge Euro-American dominance in the international system. Islam and the ummah in the Indo-Pacific have the potential to offer an international system that is more just, collaborative and based on transcendent moral values - a global project that is relevant in the context of criticism of the contemporary system of international relations that is still heavily dominated by the Western paradigm.

By combining the framework of *siyasah shar'iyah* and postcolonial criticism, this decolonization effort aims to present a democracy that is not only procedural, but also substantive and ethical. A democracy that

³⁰ Henk Schulte Nordholt, "Indonesia in the 1950s: Nation, modernity, and the post-colonial state," *Bijdragen tot de Taal-, Land- en Volkenkunde* 167, no. 4 (2011): 386-404.

³¹ Abu Hasan Ali Al-Mawardi, "al-Ahkam al-Sulthaniyah wa-Wilayat al-Diniyah," *Beirut: Dar al-Fikr*, 1996.

³² Ibn Taymiyyah, "al-Siyasah al-Syar'iyah," *Al-Qābirah: Dār al-Fiqr al-'Arabi*, 1952.

³³ Abu Ishaq Al-Syatibi, "al-Muwafaqat fi Ushul al-Syari'ah," *Vol. II (Beirut: Dar Al Kutub Al Ilmiyah, Tt)* 1 (2003): 290.

³⁴ Prasenjit Duara, *Decolonization: Perspectives from Now and Then* (Routledge, 2004).

³⁵ N. Bootsma, "The Discovery of Indonesia: Western (non-Dutch) Historiography on the Decolonization of Indonesia," *Bijdragen tot de Taal-, Land- en Volkenkunde* 151, no. 1 (1995): 1-22.

³⁶ Nordholt, "Indonesia in the 1950s."

³⁷ Roel Frakking, Abdul Wahid, and Taufiq Hanafi, "Revolutionary worlds: an introduction," in *Revolutionary Worlds*, ed. by Bambang Purwanto et al., Local Perspectives and Dynamics during the Indonesian Independence War, 1945-1949 (Amsterdam University Press, 2023), 11-32, <https://doi.org/10.2307/jj.399493.4>.

does not merely imitate Western models, but is rooted in the sociocultural realities of Indonesian Muslims. As asserted in the work *Revolutionary Worlds* (Frakking & Wahid, 2023), the struggle for independence and decolonization is not the end point, but the beginning of a long struggle to build a just and dignified political order. Thus, the decolonization of Islamic politics is a call to transform the political system to be more authentic, humane, and in line with the ideals of justice in Islam and Pancasila.

Juridical and Theoretical Diagnosis of Presidential Campaign *Conflict of Interest* in Indonesia

The establishment of laws and regulations surrounding the Presidential campaign ideally encourages the realization of direct, general, free, secret, honest and fair elections.³⁸ This fundamental interpretation of elections is then collided with the current political reality, where conflicts of interest³⁹ to the President's *conflict of interest* through the campaign process, which is rooted in imbalanced rules and weak law enforcement, are still ongoing. The role of election management and supervisory institutions in a democratic country is an indicator that must be fulfilled and harmonized with clear regulations in order to achieve legal certainty and democratic elections.⁴⁰ Election supervision in Indonesia is embodied in the Election Supervisory Agency or Bawaslu, which is formed and transformed from time to time with the aim of maintaining democratization and actualization of electoral justice.⁴¹ KPU, which is the organizer of the election, is accompanied by Bawaslu as a form of supervising and balancing the independent *extra bodies* or *state auxiliary agencies* in Indonesia. Under the legal umbrella through Law Number 7 of 2017 concerning Elections and a comprehensive study, the ideal of the KPU's authority is to supervise the elections in the aspect of enforcement without an adjudication process or minor violations. Bawaslu itself is included in the *quasi judicial*, which is an institution that has the authority of executors and judges,⁴² but in essence Bawaslu handles allegations of structured, massive and systematic violations and requires an adjudication process.⁴³

The emergence of the complexity of election problems such as abuse of authority is a challenge for Election Supervisors to identify and deal with these problems,⁴⁴ which has resulted in solutions and sanctions for the President's interference in the election campaign not being resolved until now. The *executive heavy* that takes place in Indonesia⁴⁵ also drives the dichotomy of the independence of Bawaslu institutions. The degradation of information related to the President's interference in the campaign from social media pages and official digital newspaper websites that occur, supported by weak law enforcement, shows the urgency of reconfiguring the President's campaign system must be done immediately.

³⁸ Ahmad Jukari, "The Development of the Election Supervision System in Indonesia (Institutional Study, Authority and Obligation)," *JPW (Walisongo Political Journal)* 3, no. 1 (2021): 2, <https://doi.org/10.21580/jpw.v3i1.8791>.

³⁹ Syaiful Bahri, Agus Margunaji, dan Ipa Fatma Alhamid, "Konflik Kepentingan Antar Stakeholder Dalam Pelaksanaan Pemilihan Umum 2024," *Journal of Indonesian Rural and Regional Government* 7, no. 2 (2023): 79, <https://doi.org/10.47431/jirreg.v7i2.357>.

⁴⁰ Muh. Iqbal Latief, "Evaluative Study of Election Institutions in Indonesia," *Journal of the National Defense Institute of the Republic of Indonesia* 10, no. 1 (2022): 30, <https://doi.org/10.55960/jlri.v10i1.269>.

⁴¹ Afifuddin, *Grounding Election Supervision* (Jakarta: PT Elex Media Komputindo, 2020), 4, https://books.google.co.id/books?hl=en&lr=&id=CozrDwAAQBAJ&oi=fnd&pg=PP1&dq=bawaslu+campaign+president&ots=UbBeBi7Wg8&sig=sYcQkH1SCKoInpaVTAHSrN3sNGo&redir_esc=y#v=onepage&q=bawaslu%20campaign%20president&f=false.

⁴² Sukimin Sukimin and Subaidah Ratna Juita, "Actualization of the General Election Supervisory Agency in Preventing Election Violations in Indonesia," *JPeHI (Indonesian Journal of Legal Research)* 4, no. 1 (2023): 85, <https://doi.org/10.61689/jpehi.v4i1.463>.

⁴³ Hananto Widodo and Dicky Eko Prasetyo, "Structuring the Authority of the KPU and Bawaslu in Supervising and Handling Election Process Disputes," *Legal Perspectives* 21, no. 2 (November 2021): 213, <https://doi.org/10.30649/ph.v21i2.93>.

⁴⁴ Ilham Majid, "Legal Implications for Election Supervision in Indonesia," *Paramarta Journal of Legal Studies* 22, no. 2 (2023): 48, <https://doi.org/10.32816/paramarta.v22i2.279>.

⁴⁵ Wicaksana Dramanda, Syahrul Fauzul Kabir, and Asep Hakim Zakiran, "Presidential System and the Rise of Neo Authoritarianism: The Failure of Constitutional Reform in Indonesia?", *Constitutional Journal* 21, no. 3 (September 2024): 350, <https://doi.org/10.31078/jk2131>.

The term *cawe-cawe*, which became populist because it was uttered by President Jokowi in a press conference at the opening of the PDIP III National Work Meeting in 2023⁴⁶, turned out to cause a negative response among the public. The President's campaign rights as stated in Article 299 paragraph (1) of Law Number 7 Year 2017 were used as a basis for President Jokowi⁴⁷ when issuing arguments for Presidential interference in the democratic party. President Jokowi's subversive action in the 2024 elections to support one of the Presidential and Vice Presidential Candidate Pairs for the 2024-2029 period, namely Prabowo Subianto and Gibran Rakabuming Raka, was framed through a private dinner agenda with the presence of Prabowo Subianto and important figures, such as senior minister Airlangga Hartanto and Zulkifli Hasan, who are functionally members of the coalition supporting Prabowo's candidacy.⁴⁸ Secretary of the Prabowo-Gibran National Campaign Team (TKN), Nusron Wahid, interpreted the event as an indication of support and stated that President Jokowi wanted the Prabowo-Gibran pair to continue the leadership and development that had been initiated during his administration.⁴⁹

President Jokowi's political maneuvering that also came into the spotlight was the activism of distributing social assistance (bansos) in the form of food and cash to the poor with the main target object in Central Java, which is the voting base of the opposition Prabowo-Gibran Candidate Pair, namely Ganjar Pranowo, in fact it had an impact on 69% of a quarter of voters who received the assistance switched to support Prabowo.⁵⁰ President Jokowi's interference in the 2024 elections above is subtle and does not leave concrete evidence that regulatively shows partisanship. The various evidences and empirical arguments present are difficult to categorize as explicit violations, but the basic premise of the President's non-neutrality in the Election contestation still draws sharp criticism from legal experts and of course the parallel elements of justice for state leaders do not run in harmony with the reality that occurs.

The *posterity* of campaign interference was again carried out by the President-elect for the 2024-2029 period, Prabowo Subianto, openly. His explicit support for the candidate pair for Governor and Deputy Governor of Central Java, Ahmad Luthfi and Taj Yasin and his support for the candidate for Governor of Banten, Andra Soni⁵¹ further emphasized how President Prabowo did not hesitate to interfere in regional political contestation by supporting candidates with whom he had political ties. The Gerindra Chairman also issued a letter of instruction supporting Ridwan Kamil in the 2024 Jakarta elections.⁵² The letter was widely circulated ahead of the quiet period, which sparked a debate on political ethics.

The efforts made by President Prabowo have juridically violated Article 17 and Article 42 of Law Number 30 of 2014, Law Number 10 of 2016, as well as Article 282 and Article 283 of Law Number 7 of

⁴⁶ "Bawaslu Doesn't Disputes Jokowi's Cawe-cawe in the 2024 Election," *Tempo.co*, June 21, 2023, <https://www.tempo.co/politik/bawaslu-tak-permasalahkan-cawe-cawe-jokowi-dalam-pemilu-2024-174546>.

⁴⁷ Dian Erika Nugraheny and Ihsanuddin, "Jokowi: The Law Says the President Has Campaign Rights, Don't Pull it Everywhere," *KOMPAS.com*, January 26, 2024, <https://nasional.kompas.com/read/2024/01/26/18101481/jokowi-uu-menyatakan-presiden-punya-hak-kampanye-jangan-ditarik-ke-mana-mana>.

⁴⁸ Juliette LOESCH, "Indonesia's 2024 Presidential Elections Campaigning for Continuity" (Institut Français des Relations Internationales (Ifri), February 7, 2024), 6, <https://www.ifri.org/en/memos/indonesias-2024-presidential-elections-campaigning-continuity>.

⁴⁹ Editorial Team, "This is the Latest Evidence Jokowi Supports Prabowo in 2024 Presidential Elections?", *CNBC Indonesia*, January 6, 2024, <https://www.cnbcindonesia.com/news/20240106060949-4-503203/ini-bukti-terbaru-jokowi-dukung-prabowo-di-pilpres-2024?utm>

⁵⁰ Marcus Mietzner, "Jokowi's Pyrrhic Victory: Indonesia's 2024 Elections and the Political Reinvention of Prabowo Subianto," *Contemporary Southeast Asia: A Journal of International and Strategic Affairs* 46, no. 2 (August 2024): 206, <https://doi.org/10.1355/cs46-2a>.

⁵¹ Ajat M Fajar, "After Central Java, Prabowo Now Supports Andra Soni-Dimyati in Banten Gubernatorial Election," *inilah.com*, November 23, 2024, <https://www.inilah.com/setelah-di-jateng-prabowo-kini-dukung-andra-soni-dimyati-di-pilgub-banten>.

⁵² Advist Khoirunikhmah, Annisa Febiola, and Daniel A Fajri, "Contents of Prabowo's Appeal Letter to Support Ridwan Kamil-Suswono in Jakarta Election," *Tempo.co*, November 26, 2024, <https://www.tempo.co/politik/isi-surat-imbauan-prabowo-dukung-ridwan-kamil-suswono-di-pilkada-jakarta-1173453>.

2017 which prohibit government officials from interfering with authority and prohibit state officials from taking actions that can benefit or harm one of the election participants during the campaign period such as invitations or calls to the public to vote for certain candidates. The ambiguity of legal regulations that occurs, the President as an individual affiliated with a political party has the right to support the campaign process of candidates as stipulated in Article 15 paragraph (2) of Law Number 2 of 2008 and is also legitimized by the wording of Article 299 paragraph (1) of Law Number 7 of 2017 and Article 30 of Government Regulation Number 32 of 2018 provides legalization for the President to conduct a campaign. This aspect has always been the spearhead for Bawaslu not to follow up on allegations of the President's involvement.

The legalization of the President's campaign should have several notes that must be met and adhered to. Article 281 of Law Number 7 of 2017, Article 33 of Government Regulation Number 32 of 2018, Article 62 paragraph (3) of General Election Commission Regulation (PKPU) Number 15 of 2023, and Article 53 paragraph (1) of PKPU Number 13 of 2024 have textually regulated that campaigns carried out by the President are only allowed if they meet two conditions, namely the President is required to be on leave outside state responsibility and is prohibited from using state facilities in campaign activities. Until now, Bawaslu has never explicitly stated that the involvement of President Jokowi and President Prabowo in the 2024 Election and Regional Head Election campaigns is a form of violation. Instead, Bawaslu tends to emphasize that both have political rights guaranteed by the constitution, without comprehensively considering the impact on the principles of free, secret, honest and fair elections. This attitude axiomatically raises the side of Bawaslu as a biased and authoritative supervisory institution under power, while *a contrario*, Presidential favoritism in elections can harm democracy and undermine public trust in the electoral process.

The majority of people living in a country do not realize that the phenomenon of the President's involvement in elections is the beginning of the erosion of the democratic system, this is because elections are always held every period and the various steps taken seem legal and constitutional.⁵³ Steven Levitsky and Daniel Ziblatt also criticized the electoral system in which institutions and parties have more control over elections without good *gatekeeping* or supervision.⁵⁴ The erosion of democracy through the President's participation as an '*erosive agent*' in the campaign that takes place incrementally⁵⁵ in Indonesia has an impact on the President's subjectivity towards the election results. This statement can be seen through President Jokowi's implicit support for the Prabowo-Gibran Candidate Pair and President-elect Prabowo's support for Ahmad Luthfi and Taj Yasin, Ridwan Kamil, and Andra Soni, who almost entirely won the democratic party which is ideally characterized by the neutrality of state leaders. A President who also serves as a member of a political party intervenes in an election campaign to win a candidate from his party or party coalition is included in the violation of the principle of *institutional forbearance*.⁵⁶ Such interference causes inequality in political competition because the supported candidate gets an unfair advantage, both in access to state resources and the influence of executive power.

The practice of the Presidential campaign without the aspect of neutrality affirmatively does not run in parallel with the three basic principles in government put forward by Ibn Khaldun, namely justice as a basis, wisdom in giving decisions, and integrity as a moral value.⁵⁷ Ibn Khaldun believed that the government should always prioritize justice for its people, without any special treatment for individuals or

⁵³ Levitsky and Ziblatt, *How Democracy Dies: What History Reveals about Our Future*, Terj. Zia Anshor, 60.

⁵⁴ Marcos Nobre, "Mixing up the Crisis of Democracy with the Crisis of a Certain Theory of Democracy Dominant Explanations of the Crisis and the Brazilian Case," *Berghahn Journals* 11, no. 2 (Winter 2024): 86, <https://doi.org/10.3167/dt.2024.110206>.

⁵⁵ Marianne Kneuer, "Unravelling Democratic Erosion: Who Drives the Slow Death of Democracy, and How?" 28, no. 8 (June 2021): 2, <https://doi.org/10.1080/13510347.2021.1925650>.

⁵⁶ Daphna Renan, "Presidential Norms and Article II," *Harvard Law Review* 131, no. 8 (June 2018): 2237, <https://harvardlawreview.org/print/vol-131/presidential-norms-and-article-ii/>.

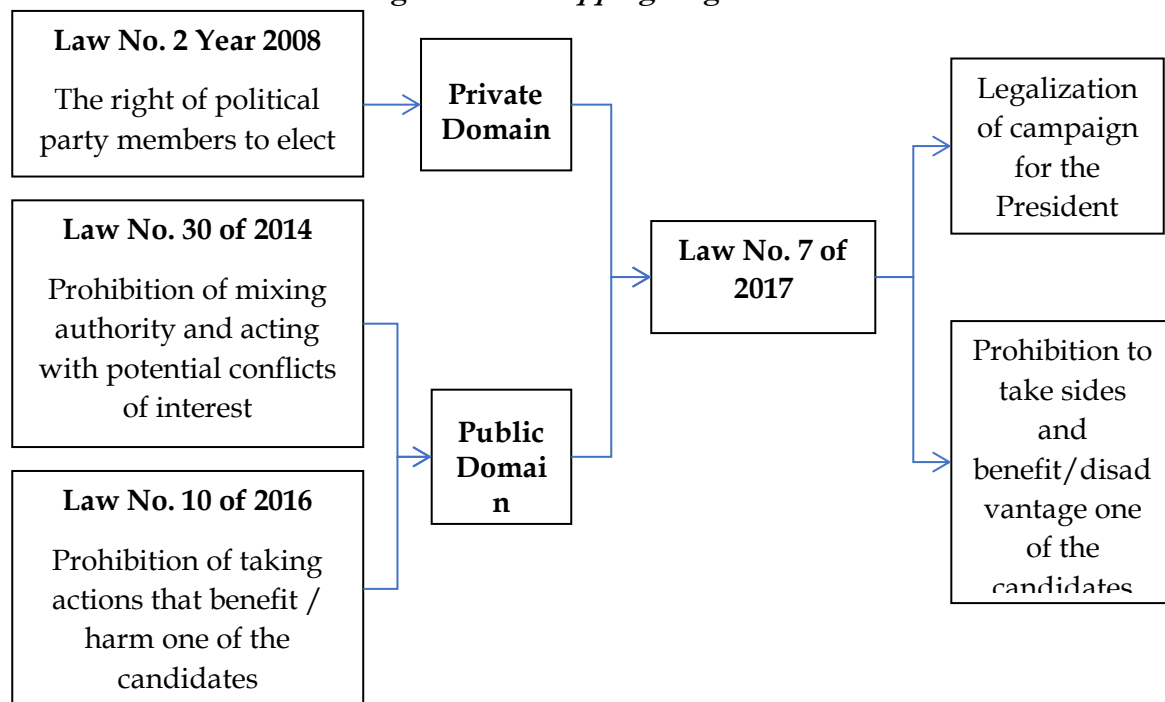
⁵⁷ Yolanda Fifiana Dwi Mukti and Zaenal Muttaqin, "The Relevance of Political Ethics Values of Ibn Taymiyyah and Ibn Khaldun: Reflections on the 2024 Regional Elections," *INNOVATIVE: Journal Of Social Science Research* 4, no. 6 (2024): 9251, <https://doi.org/10.31004/innovative.v4i6.17546>.

groups. President Jokowi's private dinner agenda with Presidential Candidate Prabowo amid the hustle and bustle of the campaign period certainly provides nuances of subjectivity of support. The President as head of state and head of government also holds great power, but the party as an epistemological form of justification of power often becomes a protector, defender, and claims on various issues⁵⁸ as reflected in Bawaslu's *statement* on President Prabowo's interference in the Pilkada campaign. The ambiguity of this system is enough to describe the ambiguity between the realm of national leadership and the dominance of individual or partisan politics so that the democratization of government by the people in Indonesia is increasingly vague.

Reconfiguring the Presidential Campaign System in Indonesia

Das sein the weakening of democracy by the President with the justification of electoral democracy in Indonesia⁵⁹ factually requires *das sollen* through the reconfiguration of the campaign system. Reconfiguration means the process of arranging a new pattern from a series of related aspects,⁶⁰ which in this paper the diction of reconfiguration presents the reformulation of regulations related to campaign authority by the President. Talking about the President's *conflict of interest* in the campaign that is substantively clashed with four laws, namely Law Number 2 of 2008, Law Number 30 of 2014, Law Number 10 of 2016, and Law Number 7 of 2017 has implications for academic debates, whether the President must always maintain neutrality or the President's right to campaign cannot be contested because it is protected by the constitution? The intersection of regulations regarding the ambiguity of the President's authority in the campaign can be seen through the following figure:

Figure 1: *Overlapping Regulations*



⁵⁸ Ibn Khaldun, *Mukaddimah Ibn Khaldun*, Transl. Masturi Irham, Malik Supar, and Abidin Zubri, 3rd ed. (East Jakarta: Pustaka Al-Kautsar, 2013), vii.

⁵⁹ Marcus Mietzner, "Authoritarian Innovations in Indonesia: Electoral Narrowing, Identity Politics and Executive Illiberalism," *Democratization* 26, no. 2 (December 2019): 2, <https://doi.org/10.1080/13510347.2019.1704266>.

⁶⁰ Cambridge Dictionary. "Reconfiguration." Accessed April 8, 2025. https://dictionary.cambridge.org/dictionary/english/reconfiguration#google_vignette

Source: Processed through Legislation (2025)

The dualism of interpretation contained in Law Number 7/2017 on Elections gives the impression of unification of three different laws. *First*, Law Number 2/2008 on Political Parties, which in its narrative embodies the right for members of political parties to choose the desired candidate,⁶¹ in this case the President can affirm his private rights as a citizen affiliated with a political party. *Second*, Law Number 30 of 2014 concerning Government Administration which presents the rule that government officials are not allowed to deviate from their authority, with further explanation including mixing authorities and providing decisions or even actions that have the potential for conflicts of interest,⁶² which in this context the President as a government official⁶³ is required to maintain neutrality. *Third*, Law No. 10/2016 on the Second Amendment to Law No. 1/2015 on the Stipulation of Government Regulation in Lieu of Law No. 1/2014 on the Election of Governors, Regents and Mayors into Law which provides provisions for state officials not to take actions or decisions that have the potential to benefit or harm candidates for Election Participants,⁶⁴ which in this case the President as a state official⁶⁵ who occupies a position in a public body cannot act arbitrarily in supporting one of the candidates in a democratic party.

Comparison of campaign restrictions on the President to maintain the neutrality of state leaders can be reviewed through the Brazilian Election Law Number 4,737, dated July 15, 1965 in Article 237 which explains the prohibition of abuse of power from the authorities that can harm the freedom of voters to choose the intended candidate.⁶⁶ Furthermore, Law No. 9,504, dated September 30, 1997, which is an Amendment Law to Election Law No. 4,737 in Article 73, elaborates in detail regarding the prohibition for Public Officials in using public services or property for the benefit of campaign candidates and also involving public employees to campaign.⁶⁷ The country of Germany with its Constitutional Court Decision (BVerfG) published by one of the senate of the court emphasized the independent position of the President is required to limit the involvement of the purpose and work with Political Parties,⁶⁸ shows that maintaining neutrality towards the President must be really considered. Unlike France, the neutrality of the President as

⁶¹ 'Article 15 paragraph (2) of Law of the Republic of Indonesia Number 2 of 2008 Concerning Political Parties (State Gazette of the Republic of Indonesia Year 2008 Number 2, Supplement to State Gazette of the Republic of Indonesia Number 4801)'.

⁶² 'Article 17 and Article 42 of Law of the Republic of Indonesia Number 30 of 2014 Concerning Government Administration (State Gazette of the Republic of Indonesia of 2014 Number 292, Supplement to State Gazette of the Republic of Indonesia Number 5601)', n.d..

⁶³ The President is categorized as a Government Official through Article 4 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which narratively states that "*The President of the Republic of Indonesia holds the power of government according to the Constitution.*" This aspect is supported based on Article 1 point 3 of Law Number 30 of 2014 concerning Government Administration with the phrase, "*Government Officials are elements that carry out Government Functions, both within the government and other state administrators.*" The President as a Government Official is also mentioned in Article 26 paragraph (1) of Law Number 20 of 2023 concerning the State Civil Apparatus with the description, "*The President as the holder of government power is the highest authority...*"

⁶⁴ 'Article 71 of Law Number 10 of 2016 on the Second Amendment to Law Number 1 of 2015 on the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 on the Election of Governors, Regents and Mayors into Law (State Gazette of the Republic of Indonesia of 2016 Number 130, Supplement to State Gazette of the Republic of Indonesia Number 5898)'.

⁶⁵ Referring to Article 1 number 1 of Law Number 28 of 1999 on Clean and Free State Administration from Corruption, Collusion, and Nepotism with the proposition, "State Administrators are State Officials who carry out executive, legislative, or judicial functions ..." it can be implied that the President is a State Official who is in the executive institution. Furthermore, Article 58 of Law Number 20 of 2023 concerning the State Civil Apparatus explicitly states that the State Officials in point (a) are the President and Vice President.

⁶⁶ "Código Eleitoral - Lei Nº4.737, De 15 De Julho De 1965," n.d., <https://www.tse.jus.br/legislacao/codigo-eleitoral/codigo-eleitoral-1/codigo-eleitoral-lei-nb0-4.737-de-15-de-julho-de-1965>.

⁶⁷ "Lei Nº9.504, De 30 De Setembro De 1997," n.t., https://www.planalto.gov.br/ccivil_03/leis/19504.htm.

⁶⁸ "Urteil vom 10. June 2014 Bundesverfassungsgericht (BVerfG)," t.t., https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2014/06/es20140610_2bve000413.html.

the leader of the country has been realized without any specific norms that limit the authority in campaigning, which can be seen through the speeches and messages of the French President from 2000 to 2020 which are dominated by the substance of persuasion towards the unity of the country.⁶⁹

Based on the *original intent* of democracy, namely the supreme power in the hands of the people, which is presented through various regulations limiting the campaign authority for the President above, the reconfiguration of the Indonesian Presidential campaign system to be built is oriented towards two parameters of democratic defense in the book *How Democracies Die* by Steven Levitsky and Daniel Ziblatt. *First, mutual tolerance*, which refers to the acceptance of parties or opposition as healthy rivals in building a country by providing constructive criticism of policies and overseeing the performance of state leaders.⁷⁰ *Second, the norm of institutional restraint (institutional forbearance)* which emphasizes that anyone who sits on the seat of government, ranging from practitioners to politicians are prohibited from using the authority that is held for personal affairs or certain groups.⁷¹ Ibn Khaldun's view that politics and power have a responsibility for substantial purposes, namely the benefit of⁷² also became the basis for the reconfiguration. Studies related to political ethics that lead to the capability of the leader as a wise figure in the will and can create a climate of comfort and welfare of the community is a top priority that must be met.⁷³

After analyzing the theoretical and juridical values embodied in the laws and regulations related to the rights and prohibitions of the President to campaign, the elaboration of changes to Law Number 7 Year 2017 as a *lex specialis* of campaign regulations is the essence of this study's discussion. Law Number 2 of 2008, Law Number 30 of 2014, and Law Number 10 of 2016 as *lex generalis* will be used as supporting materials for the formulation of the reconfiguration of the Presidential campaign system. Changes to the Election Law are specifically aimed at harmonizing the substance of Article 281 paragraph (1) related to the President's participation in the campaign, Article 299 paragraph (1) which confirms the President's campaign rights, and Article 282 which in its narrative refers to the neutrality of the President as a Public Official. The future configuration of the articles can be observed through the following table:

Table 2: Reconfiguration of Article 281, Article 282, and Article 299 of Law No. 7 Year 2017

Existing Regulation	Reasoning	Proposed Changes
Article 281 paragraph (1) (1) Election campaigns that include the President, Vice President, ministers, governors, deputy governors, regents, deputy regents, mayors, and deputy mayors must fulfill the following provisions:	The President's participation in the campaign will essentially have a hegemonic impact on the electability of the candidate being supported. The urgency of the detailed configuration of the limits of involvement in the campaign is the main point in the amendment to Article 281.	Article 281 paragraph (1) (1) Election campaigns that include the President, Vice President, ministers, governors, deputy governors, regents, deputy regents, mayors, and deputy mayors must fulfill the provisions: a. not use facilities in their positions, except for security facilities for state officials as

⁶⁹ Maarika Kujaan, Vesa Koskimaa, and Tapio Raunio, "Confrontational or 'Statespersonlike' Style? Examining Finnish and French Presidents' Public Speeches and Messages, 2000-2020," *Sage Journals* 23, no. 1 (February 2025): 29, <https://doi.org/10.1177/14789299231188605>.

⁷⁰ Levitsky and Ziblatt, *How Democracy Dies: What History Reveals about Our Future*, ed. Zia Anshor, 83.

⁷¹ Levitsky and Ziblatt, 87.

⁷² Ahmad Musonnif Alfi and Moh. Wildan Romadhoni, "Political Approaches in Islamic Studies," *Qolamuna: Journal of Islamic Studies* 8, no. 1 (July 2022): 106, <https://doi.org/10.55120/qolamuna.v8i1.662>.

⁷³ Adam Malik, Abdur Rahim, and Taufiqurachman, "The Urgency of Political Ethics According to Ibn Khaldun in its Implementation in Indonesia," *JIIIP (Scientific Journal of Education Sciences)* 6, no. 5 (May 2023): 3604, <https://doi.org/10.54371/jiip.v6i5.2003>.

<p>a. not using facilities in their positions, except for security facilities for state officials as stipulated in the provisions of laws and regulations; and</p> <p>b. undergo leave outside the state's responsibility.</p>		<p>stipulated in the provisions of laws and regulations;</p> <p>b. undergo leave outside the state's responsibility; and</p> <p>c. not campaigning in the form of active participation orally or in writing.</p>
<p>Article 282 State officials, structural officials, and functional officials in state positions, as well as village heads are prohibited from making decisions and/or taking actions that benefit or harm one of the Election Participants during the campaign period.</p>	<p>The lack of affirmation of the phrase 'state official' could open up a broad interpretation of the President's position with the obligation to maintain neutrality in elections or to provide support through the campaign process.</p>	<p>Article 282 State officials as referred to in Article 281, structural officials, and functional officials in public positions, as well as village heads are prohibited from making decisions and/or taking actions that benefit or harm one of the Election Participants during the campaign period.</p>
<p>Article 299 paragraph (1) (1) The President and Vice President have the right to carry out a campaign</p>	<p>The legitimization of the President's campaign rights in Article 299 paragraph (1) gives a contradictory impression to Article 282, hence the need for paragraph continuity to clarify the ambiguity of the phrase.</p>	<p>Article 299 (1) The President and Vice President have the right to carry out campaigns (2) The right to campaign for the President and Vice President as referred to in Article 281 is attached to the position which is the embodiment of citizens' rights.</p>

Source: processed by the author

The reconfiguration of Article 281, Article 282, and Article 299 of Law Number 7/2017 on General Elections reflects the state's normative efforts in building an electoral system that is fair, has integrity, and upholds the principles of constitutional democracy. These three articles have an important role in preventing abuse of power, especially by state officials and government administrators, during the election campaign period. Meanwhile, Article 281 regulates the provisions of campaigns by state officials, emphasizing ethical and legal restrictions to maintain the neutrality of the state apparatus. Article 282 expressly prohibits the abuse of authority to benefit certain election participants. Meanwhile, Article 299 emphasizes the importance of the neutrality of the president and vice president in electoral contestation to avoid conflicts of interest between public office and electoral politics. Thus, these three articles not only function as technical regulations, but also as a manifestation of the principle of *checks and balances* in a democratic system. Reconfiguring them requires strengthening law enforcement, independent oversight, and increasing ethical political awareness in order to maintain the purity of the electoral process as a manifestation of popular sovereignty.

Decolonizing the Presidential Election System in Indonesia: Reconstructing Constitutional Democracy in the Perspective of *Siyasah Syar'iyah*

The phenomenon of the President's *involvement* in the 2024 election contest in Indonesia reveals the deepest layers of the problem of electoral democracy, which has been reduced to mere formalistic procedures. The democratic process, which ideally upholds the principles of substantive justice and

neutrality of power, is tainted by the practice of political favoritism, regulatory imbalances, and weak institutional oversight.⁷⁴ In this context, the Islamic political decolonization approach offers a critical lens that dismantles the colonial legacy of political domination and opens space for Islamic values such as *al-'adl* (justice), *amanah* (integrity), and *mas'uliyah* (moral responsibility) as pillars of leadership ethics.⁷⁵

The decolonization of Islamic politics rejects the dominance of the modern state model that relies on mere procedural legalism and justification of power in the name of positive law. Instead, it emphasizes the importance of the leader's morals as a determinant of political legitimacy.⁷⁶ Ibn Khaldun in *Muqaddimah* states that just power is the main condition for the sustainability of civilization. For him, "justice is the basic support of power; if it disappears, so will power."⁷⁷ In a situation where the President openly supports a candidate pair, either symbolically through private dinners, distribution of social assistance, or letters of support to regional head candidates, the principle of justice emphasized by Ibn Khaldun has been compromised for the sake of short-term political gain.

Al-Mawardi in *Al-Ahkam Al-Sultaniyyah* also emphasized that a leader should not prioritize the interests of certain groups or individuals that interfere with public justice. He wrote, "Leaders must place themselves in the middle of society, not be one-sided, and distance themselves from taking sides."⁷⁸ If a President who is also a political party leader uses his authority to support candidates from his party, then it is a form of political bias that harms the mandate of leadership in the view of Islam. Furthermore, Al-Ghazali in *Nasihat al-Muluk* provides sharp criticism of the practice of rulers who utilize power for personal political interests. He states that "the corruption of the people comes from the corruption of the leaders, and the corruption of the leaders is due to their love for the world and lust."⁷⁹ The President's interference in the campaign is a contemporary illustration of what Al-Ghazali called politics that is dominated by the lust for power (*hubb al-riyasah*) rather than driven by devotion to justice (*kehidmah li al-'adl*).⁸⁰

When the President takes refuge behind multi-interpretive legal articles, such as Article 299 paragraph (1) of the Election Law, to justify his involvement in the campaign, it shows that the Indonesian political system has been trapped in a form of *legal authoritarianism*, where actions that harm democratic principles can be formally justified. In this context, the decolonization of Islamic politics reminds us that legitimacy comes not only from state law, but also from moral values, social justice, and the integrity of leaders.⁸¹

The concept of *institutional forbearance* violated by the President - i.e. self-control in the formal use of power - is directly proportional to the concept of *wara'* in Islamic tradition, which is prudence in acting so as not to cause damage (*fasad*) in society. If leaders are no longer able to distinguish between ethical authority and legalistic authority, the end result is the degradation of public trust, social polarization, and the erosion of the spirit of democracy.

⁷⁴ M. Miftahul Hidayat, "The 2024 General Elections in Indonesia: Issues of Political Dynasties, Electoral Fraud, and the Emergence of a National Protest Movements," *LAS Journal of Localities* 2, no. 1 (June 29, 2024): 33-51, <https://doi.org/10.62033/iasjol.v2i1.51>; Putra Perdana Ahmad Saifulloh et al., "Political Dynasties in General Elections According to Human Rights and A Comparison in Four ASEAN Countries," *Trunojoyo Law Review* 7, no. 1 (January 11, 2025): 123-60, <https://doi.org/10.21107/tr.v7i1.28492>.

⁷⁵ Mehrzad Boroujerdi, *Mirror for the Muslim Prince: Islam and the Theory of Statecraft* (Syracuse University Press, 2013).

⁷⁶ Humeira Iqtidar, "Jizya against Nationalism: Abul A'la Maududi's Attempt at Decolonizing Political Theory," *The Journal of Politics* 83, no. 3 (July 2021): 1145-57, <https://doi.org/10.1086/710973>.

⁷⁷ Muḥammad Maḥmūd Rabī', *The Political Theory of Ibn Khaldun* (Brill Archive, 1967).

⁷⁸ Al-Mawardi, "al-Ahkam al-Sulthaniyah wa-Wilayat al-Diniyah."

⁷⁹ Abu Hamid Al-Ghazali, "Nasihat al-Muluk," *Edited by Jalal Humai. Tebran: Huma Publishing* 1367 (1936).

⁸⁰ L. Marlow, *Counsel for Kings: Wisdom and Politics in Tenth-Century Iran: Volume II: The Nasihat al-Muluk of Pseudo-Mawardi: Texts, Sources and Authorities* (Edinburgh University Press, 2016).

⁸¹ Kevin W. Fogg, "Decolonization and Religion: Islamic Arguments for Indonesian Independence," *Leidschrift* 31, no. October: Een beladen geschiedenis. De decolonisatieoorlog in Indonesië, 1945-1955 (2016): 109-24; Cyrus Schayegh and Yoav Di-Capua, "Why Decolonization?", *International Journal of Middle East Studies* 52, no. 1 (February 2020): 137-45, <https://doi.org/10.1017/S0020743819001107>.

Empirical Findings	Criticism & Value of <i>Siyasah Shar'iyah</i>
Conflict of interest & misuse of facilities (political dinners, targeted social assistance)	<i>Al-Māwardī</i> asserts: "الإمام جُنَّة يُقَاتِلُ مَنْ وَرَأَاهُ وَيُتَّقِي بِهِ" - The <i>Imam is a shield; he protects, not troubles the people</i> (<i>Al-Ahkām as-Sulṭāniyyah</i> , Bāb 1). A President who utilizes the office for partisan purposes has torn the function of "shield" and opened the door to <i>istibdād</i> (tyranny).
Weak enforcement of Bawaslu (quasi-judicial)	Ibn Taymiyyah warned: "إِنَّ اللَّهَ لَيُقِيمُ الدَّوْلَةَ الْعَادِلَةَ وَإِنْ كَانَتْ كَافِرَةً، وَلَا يُقِيمُ الظَّالِمَةَ وَإِنْ كَانَتْ مُسْلِمَةً" - <i>Allah upholds the just state despite the disbelievers; and overthrows the unjust state despite the Muslims</i> (<i>Siyasah Shar'iyah</i> , Muqaddimah). That is, watchdog institutions that fear the executive allow "procedural injustice", undermining shar'ī and constitutional legitimacy at the same time.
Overlapping regulations that allow ambiguity in the rights-obligations of the President	<i>Al-Shāṭibī</i> put the rules of <i>raf' al-ḥaraj</i> (rejecting mudarat) and <i>sadd adz-dzārā'i</i> (closing the door to damage) as part of maqāṣid (<i>Al-Muwāfaqāt</i> , Juz 2). A legal text with multiple interpretations is the "door to corruption"; it must be clarified to protect <i>maslahah al-'āmah</i> .

This research reveals a number of serious problems in Indonesia's political practices, especially related to the President's abuse of power in electoral contestation. These empirical findings indicate a real discrepancy between the ongoing political practices and the principles of *siyasah shari'iyah*, which is Islamic political governance that emphasizes justice, trustworthiness, and public benefit (*maslahah*). With this approach, the problems faced are not only read as formal legal issues, but as a moral crisis and political ethics that must be reconstructed in depth.

The first finding is related to conflicts of interest and misuse of state facilities, such as partisan political dinners and the distribution of social assistance that is not well-targeted. In *Al-Māwardī's* view (*Al-Ahkām as-Sulṭāniyyah*), an Imam or leader is a protector of the people who serves as a "shield" for them, not as a source of hardship and oppression. He emphasized, "الإمام جُنَّة يُقَاتِلُ مَنْ وَرَأَاهُ وَيُتَّقِي بِهِ" which means "The Imam is a shield; he protects, not troubles the people."⁸² When a President utilizes his power for the benefit of his faction or party, he undermines this protective function and opens the door to the practice of tyranny (*istibdād*), which is contrary to the principles of Islamic leadership.

The second finding raises the issue of weak law enforcement by election supervisory institutions, especially Bawaslu, which has a vital role as a guardian of democratic justice. Ibn Taymiyyah in *Siyasah Shar'iyah* asserts that Allah will uphold a just state even if it is not an Islamic state, and overthrow an oppressive state even if it is Muslim. The quote "إِنَّ اللَّهَ لَيُقِيمُ الدَّوْلَةَ الْعَادِلَةَ وَإِنْ كَانَتْ كَافِرَةً، وَلَا يُقِيمُ الظَّالِمَةَ وَإِنْ كَانَتْ مُسْلِمَةً" underlines that justice is the main foundation of state legitimacy.⁸³ If Bawaslu fails to carry out its supervisory function independently due to political pressure, its constitutional and shar'ī legitimacy will simultaneously collapse. This shows that the weakness of supervisory institutions has the potential to strengthen the practice of injustice and trigger a crisis of public confidence in the democratic system.

The third finding relates to the overlapping regulations that cause ambiguity in the rights and obligations of the President in the campaign. *Al-Shāṭibī* in *Al-Muwāfaqāt* reminds the importance of the rules of *raf' al-ḥaraj* (rejecting mudarat) and *sadd adz-dzārā'i* (closing the door to damage) as part of maqāṣid sharia.⁸⁴ Multi-interpretative or ambiguous regulations open the door to potential abuse, to the detriment of *maslahah al-'āmah* (public interest). For this reason, affirmation and harmonization of regulations are very important so that the political process does not cause greater social damage and violate the principles of justice and balance in politics.

⁸² Al-Mawardi, "al-Ahkām al-Sulṭāniyyah wa-Wilayat al-Diniyah."

⁸³ Taymiyyah, "al-Siyasah al-Shar'iyah."

⁸⁴ Al-Syatibi, "al-Muwāfaqāt fi Ushul al-Syari'ah."

These three findings collectively show that Indonesia's current political system has deviated from the values of justice and transparency which are the main foundations of Islamic law. Therefore, improvements are needed that are not only normative at the regulatory level, but also the transformation of political culture through the internalization of Islamic principles such as justice (*'adl*), trust (*amanah*), and benefit (*maslahah*).

The decolonization of Islamic politics is not merely a structural or legalistic change, but a profound epistemological transformation. This project demands political liberation from the trap of absolute power and manipulation that has been undermining the integrity of Indonesian democracy. Decolonization invites us to shift the paradigm of leadership from a mere struggle for power to a mandate-bearer who prioritizes justice, social balance, and moral responsibility. Reconfiguring the Presidential campaign system is not enough to change technical regulations, but must be followed by the internalization of strong Islamic values - justice (*'adl*), honesty (*siddiq*), and noble character (*kebuhluq*). These values must become the ethical footing that guides the entire political process, from elections, campaign implementation, to government management. Thus, politics in Indonesia can move out of the shadow of modern power colonialism that tends to reduce politics to a pragmatic battleground, and move towards the vision of *kebilafah 'ala minhajin nubuwwah* - *leadership* based on universal Islamic and prophetic principles.

This vision is not just normative idealism, but a real need for the Indonesian political system to be able to present leaders who are not only legally valid, but also morally and socially legitimate. By realizing clean, fair and responsible politics, the nation can reimagine a dignified, inclusive and sustainable democratic future, in line with the spirit of justice taught in *siyasah shari'iyah*. Ultimately, the decolonization of Islamic politics paves the way for the establishment of a political order that reflects not only the sovereignty of the people, but also the sovereignty of noble values that unite society in harmony and common good.

Conclusion

This study found that the presidential election system in Indonesia is still in the shadow of the legacy of political colonialism in the form of procedural liberal democracy which tends to ignore the ethical, spiritual and substantive dimensions of justice. The phenomenon of the President's *involvement* in the campaign is concrete evidence of conflicts of interest, weak supervision of institutions such as Bawaslu, and overlapping regulations that open up loopholes for legalistic but unethical abuse of power. By adopting the *siyasah shari'iyah* approach, this study emphasizes the importance of decolonizing Islamic politics as an effort to build a democracy that is not only legally valid, but also morally just and dignified. Principles such as *al-'adl* (justice), *amanah* (leadership integrity), and *mas'uliyah* (public responsibility) become the basis of political ethics that need to be internalized in the electoral system.

As a solution, this study proposes a reconfiguration of the Presidential campaign system, specifically through revisions to Articles 281, 282, and 299 of Law Number 7 Year 2017 so that there is legal certainty regarding Presidential neutrality. Moreover, the changes should not only stop at the normative aspect, but also target the revamping of political culture to be in accordance with Islamic values and the context of Indonesian society. Thus, the decolonization of Islamic politics is not merely a criticism of the Western democratic model, but rather a constructive project to present a leadership and electoral system that is more ethical, just and oriented towards the benefit of the people. This is a strategic step to organize the future of Indonesian democracy that is more inclusive, authentic, and based on the noble values of the nation and religion.

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