

# UNIVERSA

## International Journal of Socio-legal, Economics, Science and Educational Technology

Volume 1, Issue 2, March 2026



### Bay'ah and Representative Legitimacy in Indonesia's Constitutional Order

*Baiat dan Legitimasi Representatif dalam Tatanan Ketatanegaraan  
Indonesia*

M. Fikrar Saputra\*<sup>1</sup> Syamrianti<sup>2</sup> Kurniati<sup>3</sup>

Universitas Islam Negeri Alauddin Makassar, Makassar, Indonesia <sup>1 2 3</sup>

\*Corresponding Author: [fikran.mks99@gmail.com](mailto:fikran.mks99@gmail.com)

Submitted : 11 May 2026

Revision : 21 May 2026

Accepted : 29 May 2026

#### Abstract

This study examines the substantive relationship between *bay'ah* in Islamic political thought and the system of indirect democracy formerly practiced in Indonesia through the authority of the People's Consultative Assembly (MPR). Using a normative and comparative approach based on constitutional law and *fiqh siyasah*, the study analyzes the role of representative institutions in establishing political legitimacy. The findings show that both *abl al-hall wa al-'aqd* in Islamic governance and the MPR in Indonesia functioned as representative bodies that conferred legitimacy upon political leaders through formal oath mechanisms. However, the study also identifies fundamental differences concerning sovereignty, constitutional hierarchy, and mechanisms of political accountability. While *bay'ah* is rooted in divine legitimacy and religious obligation, the MPR system was grounded in constitutional popular sovereignty. This study contributes to comparative constitutional discourse by demonstrating the conceptual intersection between Islamic political legitimacy and representative democratic governance in Indonesia.

**Keywords:** Bay'ah; Representative Legitimacy; Constitutional Law; Islamic Political; Democracy

#### Abstrak

Penelitian ini mengkaji hubungan substantif antara konsep *baiat* dalam pemikiran politik Islam dan sistem demokrasi tidak langsung yang pernah diterapkan di Indonesia melalui kewenangan Majelis Permusyawaratan Rakyat (MPR). Dengan menggunakan pendekatan normatif dan komparatif berbasis hukum tata negara dan *fiqh siyasah*, penelitian ini menganalisis peran lembaga perwakilan dalam membentuk legitimasi politik. Hasil penelitian menunjukkan bahwa *abl al-hall wa al-'aqd* dalam pemerintahan Islam maupun MPR di Indonesia sama-sama berfungsi sebagai lembaga representatif yang memberikan legitimasi kepada pemimpin politik melalui mekanisme sumpah formal. Namun demikian, terdapat perbedaan mendasar terkait sumber kedaulatan, hierarki ketatanegaraan, dan mekanisme akuntabilitas politik. Jika *baiat* berlandaskan legitimasi ilahiah dan kewajiban religius, sistem MPR bertumpu pada kedaulatan rakyat secara konstitusional. Penelitian ini berkontribusi pada diskursus ketatanegaraan komparatif mengenai legitimasi politik Islam dan demokrasi representatif di Indonesia.

**Kata Kunci:** Baiat; Legitimasi Representatif; Hukum Tata Negara; Politik Islam; Demokrasi



Creative Commons Attribution-ShareAlike (CC BY-SA): This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License (<https://creativecommons.org/licenses/by-sa/4.0/>). If you remix, transform, or build upon the material, you must contribute under the same license as the original.

## INTRODUCTION

Democracy, at its core, is a system that places the people at the foundation of the legitimacy of power. Freedom of expression, equality before the law, and popular sovereignty are central tenets and fundamental principles of a democratic state. In other words, a democratic state can be defined as a concept of governance in which every policy must be grounded in the will of the people in order to achieve prosperity. In modern democratic systems, the legitimacy of power is derived not only through the electoral process but also through constitutional mechanisms that govern the relationship between the people, state institutions, and government leaders.<sup>1</sup> Therefore, the constitution serves as a vital instrument in determining how power is granted, exercised, and monitored to ensure it does not deviate from the principle of popular sovereignty.

However, over time, democracy has not always been understood as direct, concrete participation by the people in the conduct of government. There are several models for implementing democratic systems today. One of these is indirect democracy (representative democracy), in which the people elect representatives to formulate and implement state policies. Sometimes, these representatives are also tasked with electing the head of government and overseeing the government's performance.<sup>2</sup> A model like this was once implemented in Indonesia, where the MPR (People's Consultative Assembly) served as a concrete example of indirect democracy. Prior to the amendments to the 1945 Constitution, the MPR was regarded as the embodiment of the people, with its membership comprising members of the DPR, regional representatives, and representatives of various social groups.

As a constitutional democracy, Indonesia upholds the supremacy of the 1945 Constitution as the supreme law governing the functions and relationships among state institutions. This is clearly stated in Article 1, Paragraph 2 of the 1945 Constitution, which reads: "Sovereignty resides with the people and is exercised in accordance with the Constitution." This emphasizes institutional egalitarianism among the state's governing bodies—including the executive, legislative, and judicial branches, as well as other institutions.<sup>3</sup> This contrasts with Indonesia's constitutional framework prior to the constitutional amendments of 1999–2002, under which the MPR (People's Consultative Assembly) served as the highest institution responsible for setting the nation's course, electing and inaugurating the president and vice president, such that both were regarded as the assembly's appointees.

Constitutional amendments have led to a decline in the authority of the MPR, which was originally active in establishing the GBHN (Broad Outlines of State Policy) to serve as a guide for the president in formulating national policies. Today, however, the MPR is an institution that tends to be largely nominal or symbolic. The only authority it still routinely exercises is merely listening to the oaths of the president and vice president every five years during the inauguration ceremony. As for the two remaining powers—amending and enacting the Constitution, and removing the president and/or vice president under certain conditions—the likelihood of these being exercised is very low given the complexity of current political dynamics. Moreover, the composition of the MPR has also changed since the amendments, now consisting solely of a combination of members from the DRR and DPD elected through general elections.

---

1 Syaiful Asmi Hasibuan, "Sistem Pemilihan Umum Dalam Kaitan Dengan Negara Demokrasi," *Warta Dharmawangsa* 17, no. 2 (2023): 602–9, <https://doi.org/10.46576/wdw.v17i2.3174>.

2 Suarlin and Fatmawati, *Demokrasi Dan Hak Asasi Manusia*, ed. Elpisah, 1st ed. (Banyumas: PenaPersada, 2022).

3 Noval Djamadi, "Pentingnya Edukasi Tentang Dekonstruksi Demokrasi Konstitusional Dalam Hukum Tata Negara Indonesia," *Jurnal Pustaka Mitra (Pusat Akses Kajian Mengabdikan Masyarakat)* 5, no. 2 (2025): 38–43, <https://doi.org/10.55382/jurnalpustakamitra.v5i2.894>.

This stark contrast stems from a shift in institutional doctrine from the supremacy of the assembly to the supremacy of the constitution, which has diminished the role of the MPR, reducing it to a marginal institution. However, it is important to note that prior to the constitutional amendments, the MPR was positioned as the embodiment of the people's sovereignty, making it one of the central pillars of Indonesia's constitutional history.<sup>4</sup> Even when Indonesia faced a constitutional crisis and political emergency in 1965–1966, the MPR played an active role in saving the nation by issuing decrees that served as the legal foundation for stabilizing the situation during the transition from the Old Order to the New Order.<sup>5</sup> This is due to the broad powers granted to the MPR by the pre-amendment Constitution.

A similar pattern can be found in Islamic teachings regarding the selection and inauguration of leaders, as well as the process of power distribution known as the Baiat. In Islamic political tradition, the Baiat is recognized as a mechanism for legitimizing the authority of an elected leader, who in this context is referred to as a caliph, imam, or amir. The social contract that forms the essence of Baiat creates an absolute bond between both parties—the elected leader and the people. This is why Baiat is also referred to as a pledge or oath of allegiance, which touches not only on political aspects but also on spiritual dimensions.<sup>6</sup> Since it is an obligation, according to the consensus of Islamic scholars based on the Qur'an and the Hadith, to choose a leader to carry out the Prophet's duties in both worldly and religious matters.

This study essentially seeks to explore the relevance and correlation between the concept of baiat and the system of indirect democracy that has been implemented in the history of Indonesian statehood. Islam and Indonesia are inseparable in sociological, cultural, and historical terms. Based on these factors, the influence of Islam has ultimately reached the legal system in Indonesia, one of the largest Muslim-majority countries in the world. Therefore, there is an urgent need to further examine the relevance of Islamic concepts in selecting leaders within Indonesia's existing democratic system.

Based on the above discussion, this study aims to analyze the similarities between the concept of baiat and indirect democracy in the mechanism for electing the President and Vice President by the People's Consultative Assembly prior to the amendment of the 1945 Constitution, from the perspective of Islamic constitutional law. This study is based on the assumption that the system of electing the President by the People's Consultative Assembly essentially shares a representative substance similar to the concept of baiat through the *ahlul halli wal aqdi*, although both developed within distinct social, political, and philosophical contexts. Therefore, this study is expected to explain how the concept of the legitimacy of power in the Islamic political tradition is relevant to the practice of indirect democracy that was once applied in the Indonesian constitutional system.

### Method

This study is a normative legal study employing both a conceptual approach and a statutory approach. The conceptual approach is used to analyze the concepts of baiat, *ahlul halli wal aqdi*, and indirect democracy from the perspective of Islamic constitutional law as an analytical framework. Meanwhile, the legislative approach is used to examine constitutional provisions

---

4 Warsito, Wulansari, and Sri Utami, "Menata Ulang Relasi Presiden, MPR Dan DPR Pasca Amandemen UUD Tahun 1945 Melalui Sistem Check And Balances," *Mustika Justice* 5, no. 1 (2026): 35–36, <https://jurnal.uic.ac.id/mustikajustice/article/view/499>.

5 Alvin Reinardus, "Ketetapan MPRS NO. XXV TAHUN 1966 Ditinjau Dari Positivisme Hukum," *Al Qodiri: Jurnal Pendidikan, Sosial, Dan Keagamaan* 20, no. 1 (2022): 1–11.

6 David Hanif, "Analisis Fiqh Siyasah Tentang Khilafah Menurut Al-Mawardi Dalam Kitab Al-Ahkam As-Shulthaniyyah," *Jurnal Lex Renaissance* 7, no. 1 (2022): 153–66, <https://doi.org/10.20885/jlr.vol7.iss1.art12>.

regarding the mechanism of indirect democracy by the People's Consultative Assembly prior to the amendment of the 1945 Constitution of the Republic of Indonesia.

This study also employs a literature review approach, in which the researcher will search for and analyze relevant literature from various sources. The sources cited in this study include academic books and research journals related to the current research topic, namely the concept of the oath of allegiance and the practice of indirect democracy by the MPR. These sources will be analyzed first before being incorporated into the discussion. The final step is to draw conclusions, in which the author presents the innovations and novelty of the research findings.

## RESULTS AND DISCUSSION

### The Concept of Bai'ah in the Islamic Political System

Etymologically, baiat derives from the word ba'at, which means a transaction or a sale. In technical terms, baiat can be defined as a pledge or oath of allegiance to a leader, promising to obey him willingly and sincerely, with Allah as the witness. This is a method used in Islamic governance to install and formally recognize an elected leader, typically carried out by the representative body known as the ahlul halli wal aqdi. This representative body consists of the people's representatives, predominantly comprising scholars and community delegates. Although there are minor differences among some Islamic political scholars regarding the actual composition of the ahlul halli wal aqdi body, they all agree that this body has the authority to select a caliph, amir, or imam (through a consultative process) and then to install and administer the oath of allegiance to the elected leader.<sup>7</sup> In the context of Islamic politics, the baiat is understood as a covenant between the people and their leader, pledging absolute and voluntary obedience as long as the leader governs in accordance with Islamic law and the principles of justice. The baiat is not merely viewed as an oath of allegiance, but also as an instrument of political legitimacy that marks the establishment of a reciprocal relationship between the leader and the people.

There are several provisions regarding the oath of allegiance set forth in the Quran as the definitive source of Islamic law, among others. In Surah Al-Fath verse 10, Allah emphasizes that pledging allegiance (*bay'ah*) to the Prophet Muhammad is, in reality, a pledge made to Allah Himself. This pledge is not merely a verbal declaration, but a commitment of faith that binds believers to obedience, loyalty, and the fulfillment of their religious responsibilities. Therefore, whoever breaks this pledge will bear the consequences upon himself, while those who remain faithful to it will receive a great reward from Allah.

إِنَّ الَّذِينَ يُبَايِعُونَ اللَّهَ يَدُ اللَّهِ فَوْقَ أَيْدِيهِمْ فَمَنْ تَكَثَّرَ فَأَتَمَّا يَنْكُثْ عَلَى نَفْسِهِ وَمَنْ أَوْفَى بِمَا عَاهَدَ عَلَيْهِ اللَّهُ فَسَيُؤْتِيهِ أَجْرًا عَظِيمًا ۝١٠

*"Indeed, those who pledge allegiance to you (Prophet Muhammad) are, in truth, pledging allegiance to Allah. Allah's hand is over their hands. Therefore, whoever breaks that pledge, the consequences of that breach will be upon himself alone. Whoever fulfills his pledge to Allah, He will grant him a great reward. " Al fath (48) : 10*

Furthermore, in Surah At-Taubah verse 111, Allah describes this pledge as a magnificent "transaction" between Allah and the believers. The believers devote their lives and wealth in the cause of Allah, while Allah promises them Paradise in return. This promise is affirmed in the Torah, the Gospel, and the Qur'an, and it represents the greatest triumph for those who believe.

7 Muranda Sukma Mufatziza, "Problematika Persoalan Bai'at Di Indonesia Dalam Konteks Fiqh Siyasah," *Jurnal Darussalam ; Jurnal Pendidikan, Komunikasi, Dan Pemikiran Hukum Islam* 14, no. 2 (2023): 28–36.

﴿ إِنَّ اللَّهَ اشْتَرَى مِنَ الْمُؤْمِنِينَ أَنْفُسَهُمْ وَأَمْوَالَهُمْ بِأَنْ لَهُمُ الْجَنَّةُ يُقَاتِلُونَ فِي سَبِيلِ اللَّهِ فَيَقْتُلُونَ وَيُقْتَلُونَ وَعَدًّا عَلَيْهِ حَقًّا فِي التَّوْرَةِ وَالْإِنْجِيلِ وَالْقُرْآنِ وَمَنْ أَوْفَى بِعَهْدِهِ مِنَ اللَّهِ فَاسْتَبْشِرُوا بِبَيْعِكُمُ الَّذِي بَايَعْتُمْ بِهِ وَذَلِكَ هُوَ الْفَوْزُ الْعَظِيمُ ﴾ (١١)

*“Indeed, Allah has purchased from the believers their lives and their wealth in exchange for Paradise, which He has promised them. They fight in the cause of Allah, so they kill or are killed. (This is) a true promise from Allah in the Torah, the Gospel, and the Qur’an. Who is more faithful to His promise than Allah? So rejoice in the transaction you have made. Such is the great victory.” Al taubah (9) : 111*

Moreover, Surah Al-Mumtahanah verse 12 explains that bay’ah was also taken from believing women. In this pledge, the Prophet Muhammad emphasized the essential principles of faith and morality: avoiding shirk (associating partners with Allah), refraining from theft, adultery, killing children, spreading false accusations, and obeying the Prophet Muhammad in all righteous matters. After accepting their pledge, the Prophet Muhammad was also instructed to seek Allah’s forgiveness for them.

يَأْتِيهَا النَّبِيُّ إِذَا جَاءَكَ الْمُؤْمِنَاتُ يُبَايِعْنَكَ عَلَى أَنْ لَا يُشْرِكْنَ بِاللَّهِ شَيْئًا وَلَا يَسْرِقْنَ وَلَا يَزْنِينَ وَلَا يَقْتُلْنَ أَوْلَادَهُنَّ وَلَا يَأْتِينَ بِمِثْقَانِ يُفْتَرِينَهُ بَيْنَ أَيْدِيهِنَّ وَأَرْجُلِهِنَّ وَلَا يَعْصِيَنَّكَ فِي مَعْرُوفٍ فَبَايِعْنَهُنَّ وَاسْتَغْفِرْ لَهُنَّ اللَّهُ إِنَّ اللَّهَ غَفُورٌ رَحِيمٌ ﴿١٢﴾

*“O Prophet, when believing women come to you to pledge allegiance – that they will not associate anything with Allah, will not steal, will not commit adultery, will not kill their children, will not fabricate lies between their hands and feet, and will not disobey you in matters of righteousness – accept their pledge and ask Allah to forgive them. Indeed, Allah is the Most Forgiving, the Most Merciful.” Al mumtahanah (60) : 12*

The concept of the pledge of allegiance itself was already known and practiced during the time of the Prophet Muhammad, known as the Pledge of Aqaba. This event is divided into two parts: the First Pledge of Aqaba in 621 CE, which coincided with the Hajj pilgrimage, during which the Prophet was visited by 12 people from the Khazraj and Auf tribes to pledge their allegiance to him. The background of this event began when six people from Medina embraced Islam and were entrusted by the Prophet to convey the message of the religion in their respective areas. Exactly one year later, which also coincided with the Hajj season, 75 people returned to the Prophet to pledge allegiance at the same location, namely at Aqabah, an event known as the Second Pledge of Aqabah. The pledge they recited affirmed their faith in Allah, renouncing evil deeds, upholding the command to do good and forbid evil, and remaining loyal and obedient to the Prophet in both good times and bad. These two events served as the initial steps for the Prophet to leave Mecca and migrate to Medina to establish a new civilization.<sup>8</sup>

When viewed through the lens of political law, it becomes clear that the Pledge of Aqaba served as the basis for the Prophet’s legitimacy in establishing the state. This was due to the binding social contract between the Prophet and the people of Medina, which enabled him to consolidate his rule.<sup>9</sup> The event of the Aqaba Pledge also serves as the basis for the Islamic constitutional convention regarding the inauguration of leaders, a practice that was continued after the Prophet’s death by the Rashidun Caliphate.

8 M H Huda and M Hasyim, “Perspektif Nilai-Nilai Kemanusiaan Dalam Baiat Aqabah Dan Piagam Madinah,” *Jurnal Pusaka* 8, no. 1 (2020): 86–98, <https://doi.org/10.35897/ps.v8i1.402>.

9 Siti Farrohah Alimina, Finsa Adhi Pratama, and Ahmad Ridho, “Sejarah Hijrah Dalam Kajian Pemikiran Islam Modern,” *El-Maqrā: Jurnal Ilmu Al-Qur’an, Hadis Dan Teologi* 3, no. 1 (2023): 1, <https://doi.org/10.31332/elmaqr.v3i1.6272>.

Furthermore, the oath of allegiance itself is fundamentally inseparable from the institution of the *Ahl al-Halli wa'l-Aqdi*, which holds the authority to deliberate and select a leader. Islamic history records that the institution of the *Ahl al-Halli wa'l-Aqdi* was first effectively implemented immediately following the passing of the Prophet Muhammad, resulting in the selection of Abu Bakr as the first caliph through a deliberative process at Saqifah Bani Sa'idah. The *Ahlul Halli wal Aqdi*, which in this case consisted of representatives from the two major early Islamic groups, the Muhajirin and the Ansar, successfully issued a decision to elect and pledge allegiance to Abu Bakr as the caliph succeeding the Prophet Muhammad as head of state and religious leader. Al-Mawardi explained that *Ahlul Halli wal Aqdi* is, in essence, a representative body that represents the ummah, so that all groups or factions are represented within this body. However, its membership is not always selected through a voting mechanism.

The most essential aspect of the *Ahlul Halli wal Aqdi* is the people's consent in appointing their representatives to run the institution. Thus, membership in this institution is fundamentally determined based on individual merit rather than the mere quantity of votes cast. According to Al-Mawardi, members of the *Ahlul Halli wal Aqdi* must fulfill several essential qualifications to ensure that they are capable of selecting and guiding rightful leadership within the Muslim community. First, they must possess justice and integrity, as fairness is fundamental in making decisions that affect society. Second, they should have sufficient knowledge and understanding, particularly in matters that enable them to determine who is truly qualified to lead. In addition, they are required to possess sound judgment (*ra'y*) and wisdom, which allow them to carefully evaluate circumstances and choose the most suitable leader for the welfare of the community.<sup>10</sup>

The system of the *Ahl al-Halli wa'l-Aqdi* was not yet fully established during the early days of the Islamic Caliphate; in other words, it had not yet been formalized into an official state institution with independent authority. However, the practices that took place at the time illustrate how the *Ahl al-Halli wa'l-Aqdi* functioned. For example, when Abu Bakr was elected caliph at Saqifah Bani Sa'idah, when Caliph Umar appointed six candidates to succeed him (this council of six, composed of senior Companions, was considered the *ahlul halli wal aqdi*), leading to the election of Uthman as the third caliph, and when Ali was appointed as the last caliph on an emergency basis—a decision also made by the *ahlul halli wal aqdi*.<sup>11</sup> Although the oath of allegiance is not exclusively administered by the *Ahl al-Halli wa'l-Aqdi*, the elected caliph sometimes still takes the oath directly from the general public, to the greatest extent possible. For example, shortly after being sworn in by the *Ahl al-Halli wa'l-Aqdi* council, Ali went to the mosque to take the general oath of allegiance from the people.

In conclusion, it can be said that the *bay'ah* is a concept of legitimacy in Islam. Although, according to Islamic doctrine, the ultimate source of authority is God, governing the state for the common good remains an obligation; therefore, the covenant between the faithful and their leader—as God's representative on Earth—to uphold Islamic law must be carried out through the *bay'ah*.<sup>12</sup> This is why the concept of the oath of allegiance differs somewhat from modern democracy, where leaders are regarded as servants of the people, and the people can remove their leaders at any time. In Islam, however, the purpose of government is to serve as a means of upholding justice and preserving the religion. Thus, both the leader and the people he leads are bound by a pledge to seek Allah's pleasure and to obey the Sharia, which means there is

---

10 Muflichah Urbananda, "Keterwakilan Muslimat Nu Kabupaten Pasuruan Dalam Pencalonan Anggota Dprd Perspektif Ahlu Al-Halli Wa Al-Aqdi," *AT-TAWASSUTH: Jurnal Ekonomi Islam* 8, no. 1 (2023): 37, <https://urj.uin-malang.ac.id/index.php/albalad/article/view/3842>.

11 Joni Zulkendra, "Pemilu Dalam Kajian Politik Islam," *Jurnal Normative* 10, no. 1 (2022): 18–21, <https://mail.ojs.unitas-pdg.ac.id/index.php/normatif/article/view/765>.

12 Ihsan Nurdin, Ahmad Syukron, and Syamsul Ariyadi, "Bai'at Dalam Tafsir Haraki ( Studi Komparasi Tafsir Fi Zilal Al-Qur'an Dan Min Wahyi Al-Qur'an)," *Al Mubarak* 10, no. 2 (2025): 165–70.

virtually no mechanism to revoke the baiat once it has been taken, unless the leader explicitly opposes or commits acts prohibited by religious law.

## The Concept of Indirect Democracy Prior to the Amendment of the 1945 Constitution by the MPR

The People's Consultative Assembly of the Republic of Indonesia is one of the legislative bodies whose authority has undergone changes due to amendments to the Constitution. Prior to the constitutional changes, the MPR was positioned as the highest state institution in accordance with Article 1, Paragraph (2) of the 1945 Constitution before the amendments: "Sovereignty resides with the people and is exercised fully by the People's Consultative Assembly." The designation as the "embodiment of the people" is a consequence of the MPR's extensive authority. Under the Constitution, the MPR was granted the authority to elect, inaugurate, and remove the president and/or vice president, enact the Constitution, and formulate the State Policy Guidelines (GBHN). Thus, in practice, from the era of independence through the reform era, Indonesia operated under what is known as indirect democracy. In this system, the people's sovereignty in governing the state was represented by a representative body comprising all social classes, regions, ethnic groups, races, groups, and religions.

The MPR was essentially designed as a representative body of the people, whose members consist of the DPR, regional representatives, and group representatives; thus, the supreme power of the state, which resides with the people, is entrusted to the MPR and then delegated to other institutions under its authority. This reflects the concept of the distribution of power, wherein other state institutions act as agents of the MPR, the supreme body. According to Dahlan Thaib, prior to the amendment of the Indonesian Constitution, the powers of the People's Consultative Assembly (*Majelis Permusyawaratan Rakyat* or MPR) were distributed among several state institutions. Executive authority was vested in the President as stated in Article 4 paragraph (1), while legislative power was exercised jointly by the House of Representatives (DPR) and the President under Article 5 paragraph (1). Judicial authority was entrusted to the Supreme Court in accordance with Article 24 paragraph (1). In addition, oversight and inspection functions were delegated to the DPR and the Supreme Audit Agency (BPK) as regulated in Article 23 paragraph (5). Meanwhile, consultative authority was assigned to the Supreme Advisory Council (DPA) under Article 16 paragraphs (1) and (2).<sup>13</sup>

The implementation of the representative democracy system becomes clearer when examining the composition of the MPR prior to the amendment of the Constitution. The MPR consisted of members of the DPR as a form of political representation of the people, regional representatives as representatives of local communities, and group representatives as representatives of functional groups. It is this composition that led the MPR to be regarded as the true embodiment of the people's sovereignty, thereby granting it the authority to set the nation's policy direction and elect the president and/or vice president. Subsequently, the president and other institutions would be bound to follow the national policy direction established by the MPR through a legal instrument known as a TAP MPR (Decree of the People's Consultative Assembly).

Nevertheless, the centralization of the MPR's authority within the framework of indirect democracy still has several weaknesses in its implementation. The system for electing the President by the People's Consultative Assembly is quite vulnerable to the dominance of

---

13 M. Rifqi Mahardika and Iswandi Iswandi, "Studi Komparatif Kedudukan Majelis Permusyawaratan Rakyat Republik Indonesia (Mpr-Ri) Sebelum Dan Pasca Amandemen Undang-Undang Dasar Negara Republik Indonesia Tahun 1945," *Limbago: Journal of Constitutional Law* 1, no. 3 (October 31, 2021): 404–18, <https://doi.org/10.22437/limbago.v1i3.16214>.

political power by certain groups. During the New Order era, for example, the composition of the MPR membership was largely under the influence of the government and dominant political forces, so that the presidential election process tended to be merely a formality. Under these conditions, the MPR's function as a representative of the people became suboptimal because political decisions were determined more by the interests of those in power than by the aspirations of the public. This led to the indirect democratic system in place at that time often being viewed merely as an instrument for legitimizing government power. Consequently, rather than serving as a representative of the people, the extensive authority of the MPR during that era tended to function as an extension of the power of the Old Order and New Order regimes.<sup>14</sup>

### **The Substantive Relevance of the Oath of Allegiance to the MPR Prior to the Amendment of the 1945 Constitution**

Upon further examination, there are essentially several similarities in principle and substance between the oath of office administered by the *ahlul halli wal aqdi* and the MPR as the body embodying the people. Both the MPR and the *ahlul halli wal aqdi* are representative bodies that embody the will of the people. In practice, prior to the amendment of the Constitution, the MPR could elect and inaugurate the president and vice president, and under certain circumstances could remove them and appoint a successor to the president and/or vice president. The same applies to the *Ahlul Halli wal Aqdi* as the representative institution of the *ummah*. Through the method of *shura* (consultation), the *Ahlul Halli wal Aqdi* can elect and swear in the head of state (caliph). Additionally, the *Ahlul Halli wal Aqdi* can also serve as a consultative body for the head of state, where the caliph can seek consultation if there are issues within the *ummah*. This institution can also issue laws and regulations in accordance with the *Qur'an* and *Sunnah* in collaboration with the executive (caliph).<sup>15</sup> Just as a legislative body that represents the people, the *ahlul halli wal aqdi* can also convey the public's aspirations to the government in order to support the welfare of the state.

Technically speaking, the *Baiat* is essentially the same as the oath of office taken by the president before the People's Consultative Assembly (MPR), as the holder of the people's sovereignty, during the inauguration ceremony. The text of the oath taken by the president and vice president is stipulated in Article 9 of the 1945 Constitution, which reads, among other things: "Before God, I swear to fulfill the duties of the President of the Republic of Indonesia to the best of my ability and with the utmost fairness, to uphold the Constitution, and to enforce all laws and regulations with the utmost integrity, and to dedicate myself to the Nation and the People." Meanwhile, in Islamic history, although there is no standard reference regarding the content of the oath in the *bay'ah*, the *bay'ah* is generally described as a two-way agreement between the leader and the representatives of the people. In this context, the *ahlul wal aqdi*, who represent the community, will first recite an oath of allegiance to the elected head of state with open hands. This oath contains an absolute pledge of loyalty to the caliph as head of state to continue to obey all his decisions under any circumstances. Only then will the caliph also take the *baiat* (oath of allegiance) to the people he represents, pledging to govern justly and faithfully in accordance with the guidance of the *Quran* and *Sunnah*, which is also performed with open hands, much like a buyer and seller in a transaction.<sup>16</sup> Of course, both oaths must be taken in the name of God to ensure the sacred nature of the oath itself.

---

14 Marsudi Dedi Putra and Regitha Putri Erlanha, "Hapusnya Utusan Golongan Dalam Undang-Undang Dasar 1945 Dan Dampak Hukumnya Terhadap Representasi Keterwakilan," *Jurnal Magister Hukum Perspektif* 16, no. 2 (January 7, 2026): 187–99, <https://doi.org/10.37303/magister.v16i2.130>.

15 Abu Sahrin and Farid Adnir, "Demokrasi Dalam Dunia Islam Perspektif Al-Mawardi," *Journal of Human And Education* 4, no. 5 (2024): 81–87, <https://jahe.or.id/index.php/jahe/index>.

16 Sukma Mufatziza, "Problematika Persoalan Bai'at Di Indonesia Dalam Konteks Fiqh Siyasaah."

Technically, the process of electing and swearing in a head of state has been explained by Al-Mawardi in his work *\*Al-Ahkam al-Sultaniyyah\**. The procedures for appointing a caliph (head of state) include the following. First, the Court of Grievances (Mahkamah Mazhalim) announces the vacancy of the caliphate; second, the interim Amir assumes his duties and immediately announces the opening of the nomination process; third, the acceptance of nominations from candidates who meet the legal requirements (*syara' in'iqad*) and the rejection of those who do not meet these requirements are determined by the Court of Grievances. Fourth, the candidates whose nominations are accepted by the Court of Grievances are narrowed down by the members of the Ahlul Halli wal Aqdi Council in two rounds of selection: first, six candidates are selected based on the highest number of votes, and then two of those six are selected again based on the highest number of votes. Then, after these two candidates are selected, the Ahlul Halli wal Aqdi council will convene in a plenary session to deliberate on which of the two candidates is the best. Once one of them is selected, that candidate is sworn in and confirmed as the caliph. Finally, the amir who has been exercising temporary authority will be dismissed, and the decision of the Ahl al-Halli wa'l-Aqdi Council regarding the appointment of the new caliph will be used as a guideline to be disseminated throughout the entire Islamic territory. Thus, every sermon in the mosques will mention the name of the elected caliph.<sup>17</sup>

Nevertheless, there were several fundamental differences between the position of the *ahlul halli wal aqdi* and that of the MPR in the pre-amendment era. The most significant difference concerned the hierarchy of their respective positions and authorities. Upon closer examination, the MPR held a far superior position compared to the *ahlul halli wal aqdi* from a constitutional law perspective. This is because, prior to the amendment of the Constitution, the MPR was an institution that truly held the people's sovereignty absolutely (as the supreme body), meaning the functions of checks and balances did not apply. In constitutional law analysis, during that period the MPR was at the level of "no rival authority." This means that nothing—whether an individual or an institution—could rival the MPR in exercising its sovereignty. Consequently, when the MPR issued directives in the form of national policy guidelines, these were considered the will of the entire Indonesian people, and other institutions were required to comply with them.<sup>18</sup> This is different from the Ahl al-Halli wa al-Aqdi, even though both are representative bodies of the people. The Ahl al-Halli wa al-Aqdi does not possess such high authority; this body is only empowered to elect and swear in the head of state, formulate laws together with him, and serve as a consultative body for the leader. The caliph himself is not a representative of the Ahl al-Halli wa al-Aqdi.

One example that illustrates the MPR's superior authority over the Ahlul Halli wal Aqdi Council is the issue of the election and removal of leaders. Prior to the amendments, the MPR had the authority to elect, inaugurate, and remove the president and/or vice president. In fact, the MPR could remove the president and/or vice president from office mid-term if they were deemed to have committed a serious violation or deviated from the state's political course. This was because, prior to the constitutional amendments—and specifically before the establishment of the Constitutional Court—there were no provisions in the Constitution explicitly addressing the mechanism for the impeachment or removal of a president mid-term. Historically, Indonesia has experienced two impeachments by the MPR. The first was President Sukarno, who was removed by the MPRS due to the political and economic crisis of 1965–1966. The second was President Abdur Rahman Wahid, who was removed by the MPR due to political conflict

---

17 Hanif, "Analisis Fiqh Siyasah Tentang Khilafah Menurut Al-Mawardi Dalam Kitab Al-Ahkam As-Shulthaniyyah."

18 Fadlah Nur, Nabilla Syifa Auliya, and Siti Zahra, "Menakar Ulang Kedudukan TAP MPR Dalam Konstelasi Peraturan Perundang Undangan Pasca Amandemen," *Jurnal Restorasi Hukum* 8, no. 1 (June 26, 2025): 105–33, <https://doi.org/10.14421/mtj7m772>.

between the DPR and the government at the time.<sup>19</sup> This historical data demonstrates the role of the MPR as the embodiment of the people, capable of both electing and removing the head of state at any time.

The situation is different when we look at Islamic governance in practice. The Council of Ahl al-Halli wa al-Aqdi does not have the authority to remove the head of state (caliph). The reason lies in the concept of the bay'ah, which creates a binding relationship between the legislative branch—as the representative of the Muslim community—and the executive branch. Once the bay'ah has been given to an elected leader, there is practically no way to revoke it. Several hadiths of the Prophet Muhammad ﷺ serve as the foundation for the binding nature of *bay'ah* (pledge of allegiance) in Islam. These narrations emphasize the importance of obedience, unity, loyalty to legitimate leadership, and commitment to truth within the Muslim community. In one narration, Ibn Abbas reported that the Prophet ﷺ said, “*Whoever sees something in his leader that he dislikes, let him be patient with it, for whoever separates himself even an inch from the community and dies, dies in a state of ignorance*” (HR Bukhari 6531). This hadith highlights the obligation to maintain unity and avoid rebellion that could lead to division among Muslims. Another narration from ‘Ubadah bin Ash-Shamit states, “*We pledged allegiance to the Messenger of Allah ﷺ to listen and obey, whether in times of enthusiasm or reluctance, not to dispute the authority of those in power, and to uphold and speak the truth wherever we may be, without fearing the blame of others in the cause of Allah*” (HR Bukhari 6660).

This hadith demonstrates that *bay'ah* involves loyalty, obedience, and moral responsibility in upholding justice and truth. Furthermore, Abdullah ibn Umar narrated that when the companions pledged allegiance to the Prophet Muhammad to hear and obey, he reminded them, “*To the best of your ability*” (HR Bukhari 6662). This indicates that obedience within the *bay'ah* framework is carried out according to one's capacity, reflecting Islam's principle of balance and practicality in fulfilling responsibilities.<sup>20</sup> This illustrates the binding power of the oath of allegiance once it has been taken—whether by the Council of Ahl al-Halli wa'l-Aqdi or by the people directly—at which point those who have taken the oath must remain loyal and obedient to its terms. This is why the Ahlul Halli wal Aqdi cannot depose the caliph, as both parties have made mutual promises to one another in the oath of allegiance. The Ahlul Halli wal Aqdi are only authorized to remind or advise the caliph in the conduct of governance.

However, this does not mean that there are no mechanisms for removing a caliph or head of state in Islamic constitutional practice. According to classical Islamic constitutional law, the institution authorized to impeach or remove the head of state is the Court of Grievances. In addition to removing the caliph, this institution also has the authority to issue a memorandum (warning) to the caliph. The conditions under which the caliph may be removed are as follows. First, if the caliph has apostatized (left Islam). This is an absolute requirement, as the primary valid condition for someone to be appointed as caliph is that they be a Muslim; thus, if the individual in question has left Islam, there is no reason to obey them as a leader. Second, if the caliph is insane or has completely lost his mind. This is because a valid requirement for being head of state is sound mental capacity. Third, if the caliph is captured by a powerful enemy, leaving no way to rescue him. Fourth, if the caliph openly violates Islamic law, the constitution, and applicable laws. Fifth, if the caliph undergoes a sex change (khuntsa). Sixth, if the caliph suffers from a physical disability that renders him unable to perform his governmental duties.

---

19 Elva Imeldatur Rohmah and Dewi Kartika Sari, “Mekanisme Pemakzulan Presiden Sebelum Dan Sesudah Terbentuknya Mahkamah Konstitusi Di Indonesia,” *As-Shahifah: Journal of Constitutional Law and Governance* 2, no. 2 (2022): 164–201, <https://doi.org/10.19105/asshahifah.v2i2.6955>.

20 Divan Riskiandi and Ilham Mustafa, “Pemahaman Hadis Tentang Baiat Di Lembaga Dakwah Islam Indonesia (LDII) Di Kerinci Divan Riskiandi Perpecahan Selama 40 Tahun . Kemudian Rasulullah Menjelaskan Dasar-Dasar Agama Islam Dan Lain . Nahdatul Ulama ( NU ), Muhammadiyah , Al-Washliyah , Nahdla,” *Journal of Humanities* 2, no. 2 (2024): 133–35, <https://ejournal.uin-suska.ac.id/index.php/jhi/article/view/35293>.

If there are indications of one or more of the conditions for the removal of the head of state, the Court of Grievances will conduct an investigation and adjudicate whether the leader in question is eligible for impeachment or not.<sup>21</sup>

After making a comparison, it can be concluded that, fundamentally, the principle of baiat is present in the presidential election conducted by the MPR through indirect democracy. This is because both Islamic constitutional systems and the system in Indonesia prior to the amendments view leaders as parties who must uphold an oath to ensure the welfare of the people. However, there is a fundamental difference in practice. This is because the concept of baiat is a principle of legitimacy carried out by the *ahlul halli wal aqdi*, whereas the president in the pre-amendment era derived his power from a mandate of the MPR, and the two hold different positions. The MPR barely exercises any checks and balances, given its position as the supreme body of the state. Meanwhile, the *ahlul halli wal aqdi*, who possess the special authority to swear in a leader, do not hold a superior position like the MPR.

## CONCLUSION

This study finds that the concept of *bai'at* in Islamic governance has substantial relevance to the system of indirect democracy formerly practiced in Indonesia through the authority of the People's Consultative Assembly (MPR). The main finding demonstrates that both systems rely on representative institutions as intermediaries in granting political legitimacy between the people and state leaders. In classical Islamic governance, legitimacy is conferred by the *ahlul halli wal aqdi* to the imam or caliph, while in Indonesia's pre-amendment constitutional system, legitimacy was granted by the MPR to the President and Vice President. The research further reveals that *bai'at* should not be understood solely as a religious pledge of loyalty, but also as a political mechanism recognizing representation and collective consent. However, the similarities identified are substantive rather than systemic because each system is rooted in different philosophical and constitutional foundations.

This study contributes to the discourse of Fiqh Siyasah and constitutional law by demonstrating that the principle of political representation in modern democracy shares conceptual similarities with classical Islamic political thought. The findings highlight that the concept of *bai'at* may be interpreted as an early form of representative political legitimacy that later evolved within democratic systems. At the same time, the study identifies weaknesses in Indonesia's former indirect democratic model, particularly the concentration of political power within the MPR, elite domination in presidential elections, and limited direct public participation. Accordingly, the study recommends that future constitutional development in Indonesia should not simply restore MPR supremacy, but instead integrate the representative and stabilizing values reflected in *bai'at* while maintaining constitutional democracy, the rule of law, and a balanced presidential system.

## BIBLIOGRAPHY

- Alimina, Siti Farrohah, Finsa Adhi Pratama, and Ahmad Ridho. "Sejarah Hijrah Dalam Kajian Pemikiran Islam Modern." *El-Maqra': Jurnal Ilmu Al-Qur'an, Hadis Dan Teologi* 3, no. 1 (2023): 1. <https://doi.org/10.31332/elmaqra.v3i1.6272>.
- Djamadi, Noval. "Pentingnya Edukasi Tentang Dekonstruksi Demokrasi Konstitusional Dalam Hukum Tata Negara Indonesia." *Jurnal Pustaka Mitra (Pusat Akses Kajian Mengabdikan Terhadap Masyarakat)* 5, no. 2 (2025): 38–43. <https://doi.org/10.55382/jurnalpustakamitra.v5i2.894>.

---

21 Abdul Rahman, "Pemakzulan Kepala Negara (Telaah Sistem Ketatanegaraan Indonesia Dan Ketatanegaraan Islam) Abdul," *Jurnal Syariah Dan Hukum Diktum* 15, no. 2 (2017): 131–32.

- Hanif, David. "Analisis Fiqh Siyash Tentang Khilafah Menurut Al-Mawardi Dalam Kitab Al-Ahkam As-Shulthaniyyah." *Jurnal Lex Renaissance* 7, no. 1 (2022): 153–66. <https://doi.org/10.20885/jlr.vol7.iss1.art12>.
- Hasibuan, Syaiful Asmi. "Sistem Pemilihan Umum Dalam Kaitan Dengan Negara Demokrasi." *Warta Dharmawangsa* 17, no. 2 (2023): 602–9. <https://doi.org/10.46576/wdw.v17i2.3174>.
- Huda, M H, and M Hasyim. "Perspektif Nilai-Nilai Kemanusiaan dalam Baiat Aqabah dan Piagam Madinah." *Jurnal Pusaka* 8, no. 1 (2020): 86–98. <https://doi.org/10.35897/ps.v8i1.402>.
- Mufatziza, Muranda Sukma. "Problematika Persoalan Bai'at di Indonesia dalam Konteks Fiqh Siyash." *Jurnal Darussalam ; Jurnal Pendidikan, Komunikasi, Dan Pemikiran Hukum Islam* 14, no. 2 (2023): 28–36.
- Nur, Fadlah, Nabilla Syifa Auliya, and Siti Zahra. "Menakar Ulang Kedudukan TAP MPR Dalam Konstelasi Peraturan Perundang Undangan Pasca Amandemen." *Jurnal Restorasi Hukum* 8, no. 1 (June 26, 2025): 105–33. <https://doi.org/10.14421/mtj7m772>.
- Nurdin, Ihsan, Ahmad Syukron, and Syamsul Ariyadi. "Bai'at dalam Tafsir Haraki (Studi Komparasi Tafsir Fi Zilal Al-Qur'an Dan Min Wahyi Al-Qur'an)." *Al Mubarak* 10, no. 2 (2025): 165–70.
- Putra, Marsudi Dedi, and Regitha Putri Erlanha. "Hapusnya Utusan Golongan Dalam Undang-Undang Dasar 1945 Dan Dampak Hukumnya Terhadap Representasi Keterwakilan." *Jurnal Magister Hukum Perspektif* 16, no. 2 (January 7, 2026): 187–99. <https://doi.org/10.37303/magister.v16i2.130>.
- Rahman, Abdul. "Pemakzulan Kepala Negara (Telaah Sistem Ketatanegaraan Indonesia Dan Ketatanegaraan Islam) Abdul." *Jurnal Syariah Dan Hukum Diktum* 15, no. 2 (2017): 131–32.
- Reinardus, Alvin. "Ketetapan MPRS NO. XXV TAHUN 1966 Ditinjau Dari Positivisme Hukum." *Al Qodiri : Jurnal Pendidikan, Sosial, Dan Keagamaan* 20, no. 1 (2022): 1–11.
- Rifqi Mahardika, M., and Iswandi Iswandi. "Studi Komparatif Kedudukan Majelis Permusyawaratan Rakyat Republik Indonesia (Mpr-Ri) Sebelum Dan Pasca Amandemen Undang-Undang Dasar Negara Republik Indonesia Tahun 1945." *Limbago: Journal of Constitutional Law* 1, no. 3 (October 31, 2021): 404–18. <https://doi.org/10.22437/limbago.v1i3.16214>.
- Riskiandi, Divan, and Ilham Mustafa. "Pemahaman Hadis Tentang Baiat Di Lembaga Dakwah Islam Indonesia (LDII) Di Kerinci Divan Riskiandi Perpecahan Selama 40 Tahun . Kemudian Rasulullah menjelaskan Dasar-Dasar agama Islam dan lain. Nahdatul Ulama (NU), Muhammadiyah, Al-Washliyah, Nahdla." *Journal of Humanities* 2, no. 2 (2024): 133–35. <https://ejournal.uin-suska.ac.id/index.php/jhi/article/view/35293>.
- Rohmah, Elva Imeldatur, and Dewi Kartika Sari. "Mekanisme Pemakzulan Presiden Sebelum dan Sesudah terbentuknya Mahkamah Konstitusi di Indonesia." *As-Shahifah : Journal of Constitutional Law and Governance* 2, no. 2 (2022): 164–201. <https://doi.org/10.19105/asshahifah.v2i2.6955>.
- Sahrin, Abu, and Farid Adnir. "Demokrasi Dalam Dunia Islam Perspektif Al-Mawardi." *Journal of Human And Education* 4, no. 5 (2024): 81–87. <https://jahe.or.id/index.php/jahe/index>.
- Suarlin, and Fatmawati. *Demokrasi Dan Hak Asasi Manusia*. Edited by Elpisah. 1st ed. Banyumas: PenaPersada, 2022.
- Urbananda, Muflichah. "Keterwakilan Muslimat Nu Kabupaten Pasuruan Dalam Pencalonan Anggota Dprd Perspektif Ahlu Al-Halli Wa Al-Aqdi." *AT-TAWASSUTH: Jurnal Ekonomi Islam* 8, no. 1 (2023): 37. <https://urj.uin-malang.ac.id/index.php/albalad/article/view/3842>.
- Warsito, Wulansari, and Sri Utami. "Menata Ulang Relasi Presiden, MPR Dan DPR Pasca Amandemen UUD Tahun 1945 Melalui Sistem Check And Balances." *Mustika Justice* 5, no. 1 (2026): 35–36. <https://jurnal.uic.ac.id/mustikajustice/article/view/499>.
- Zulhendra, Joni. "Pemilu Dalam Kajian Politik Islam." *Jurnal Normative* 10, no. 1 (2022): 18–21. <https://mail.ojs.unitas-pdg.ac.id/index.php/normatif/article/view/765>.