Reconstruction of the Principle of People's Sovereignty Based on the Perspective of Fiqh Siyasah

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Abstract

The principle of popular sovereignty constitutes a fundamental doctrine in modern constitutional democracy, positioning the people as the ultimate source of political legitimacy. However, within Islamic political thought, this principle has often been perceived as theoretically problematic due to its assumed tension with the doctrine of divine sovereignty (*ḥākimiyyah Allāh*). This article aims to reconstruct the principle of popular sovereignty from the perspective of *fiqh siyasah*, moving beyond the conventional dichotomy between divine sovereignty and popular authority. Employing a normative-philosophical approach combined with conceptual and historical analysis, this study examines classical Islamic political doctrines alongside contemporary theories of sovereignty and constitutionalism. The findings demonstrate that *fiqh siyasah* does not reject popular sovereignty per se, but rather reframes it as a form of delegated, ethically bounded authority. Sovereignty, in this perspective, is not an absolute right of the people to legislate without limits, but a collective mandate exercised within the normative framework of Islamic law and oriented toward the realization of justice and public welfare (*maqāṣid al-sharī'ah*). Popular will acquire legitimacy not merely through procedural majority, but through its conformity with substantive ethical principles. This reconstruction offers a conceptual synthesis between Islamic political jurisprudence and modern democratic governance. It further shows that democratic institutions in Muslim-majority states can operate within a framework of constitutional and ethical sovereignty without negating Islamic normative foundations. In the Indonesian context, this model provides a theoretical basis for strengthening substantive democracy by integrating popular sovereignty with constitutional values and moral accountability. The article contributes to contemporary Islamic political thought by offering a prescriptive framework that bridges normative Islamic principles and modern constitutional practice.

[Prinsip kedaulatan rakyat merupakan doktrin fundamental dalam demokrasi konstitusional modern yang menempatkan rakyat sebagai sumber utama legitimasi politik. Namun, dalam pemikiran politik Islam, prinsip ini kerap dipandang bermasalah secara teoretis karena dianggap bertentangan dengan doktrin kedaulatan Tuhan (ḥākimiyyah Allāh). Artikel ini bertujuan untuk merekonstruksi prinsip kedaulatan rakyat dari perspektif *fiqh siyasah*, dengan melampaui dikotomi konvensional antara kedaulatan ilahi dan otoritas rakyat. Dengan menggunakan pendekatan normatif-filosofis yang dipadukan dengan analisis konseptual dan historis, penelitian ini mengkaji doktrin politik Islam klasik serta teori-teori kontemporer tentang kedaulatan dan konstitusionalisme. Temuan penelitian menunjukkan bahwa *fiqh siyasah* pada dasarnya tidak menolak kedaulatan rakyat, melainkan menafsirkannya sebagai bentuk otoritas yang didelegasikan dan

dibatasi secara etis. Dalam perspektif ini, kedaulatan bukanlah hak absolut rakyat untuk membuat hukum tanpa batas, melainkan mandat kolektif yang dijalankan dalam kerangka normatif hukum Islam dan diarahkan pada terwujudnya keadilan serta kemaslahatan umum (*maqāṣid al-sharī'ah*). Kehendak rakyat memperoleh legitimasi bukan semata-mata melalui prosedur mayoritas, tetapi melalui kesesuaiannya dengan prinsip-prinsip etika substantif. Rekonstruksi ini menawarkan sintesis konseptual antara fikih politik Islam dan tata kelola demokrasi modern. Lebih lanjut, kajian ini menunjukkan bahwa institusi-institusi demokrasi di negara-negara mayoritas Muslim dapat beroperasi dalam kerangka kedaulatan konstitusional dan etis tanpa menegasikan landasan normatif Islam. Dalam konteks Indonesia, model ini memberikan dasar teoretis bagi penguatan demokrasi substantif dengan mengintegrasikan kedaulatan rakyat, nilai-nilai konstitusional, dan akuntabilitas moral. Artikel ini berkontribusi pada pemikiran politik Islam kontemporer dengan menawarkan kerangka preskriptif yang menjembatani prinsip-prinsip normatif Islam dan praktik konstitusional modern.]

Keywords: popular sovereignty; *fiqh siyasah*; Islamic political thought; constitutionalism; democracy

Introduction

The principle of people's sovereignty is a central doctrine in modern political theory that serves as the foundation of the legitimacy of state power.[1] In the framework of constitutional democracy, people's sovereignty is not merely a normative slogan but also an operational principle that shapes the relationship among citizens, law, and power.[2] This concept places people as the ultimate owners of political authority, while state institutions serve as executors of the collective will, limited by the constitution.[3] Along with the globalization of democracy, people's sovereignty has become the dominant paradigm in the formulation of the modern system of government. However, the

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[1] Indah Piliyanti, "Implementing Maqāṣid Syarī'ah on Social Innovation For Sustainable Zakat Management Organization in Indonesia," *KARSA: Journal of Social and Islamic Culture* 31, no. 1 (2023): 109–30, https://doi.org/10.19105/karsa.v31i1.12554.

[2] Adem Kassie Abebe, "The (Il) legitimacy of Constitutional Amendments in Africa and Democratic Backsliding," *Asian Journal of Comparative Law* 23 (2024): 1–20, https://doi.org/10.1017/asjcl.2024.16.

[3] Marhumah Marhumah, Iffah Khoiriyatul Muyyassaroh, dan Rosalia Sciortino, "Public Expressions of Religion among Yogyakarta's Salafi Muslimah," *KARSA Journal of Social and Islamic Culture* 32, no. 2 (22 Desember 2024): 1–20, https://doi.org/10.19105/karsa.v32i2.15440.

universalization of this concept often ignores the philosophical and cultural contexts of non-Western societies, especially Muslim societies, thereby giving rise to conceptual problems that are not straightforward when applied within the normative framework of Islam.[4]

In the tradition of Islamic thought, the concept of sovereignty has never stood theologically neutral. The supreme law and authority are believed to come from God, while humans are positioned as moral subjects who carry out the mandate on earth. This doctrine is often formulated in the concept of ḥākimiyyah, which affirms the supremacy of divine law over all aspects of life, including politics. When the principle of people's sovereignty was introduced as a source of law and power, there was concern that modern democracy inherently contained a veiled theological claim, namely the removal of God from the public sphere. This concern then gave birth to harsh criticism of democracy as a secular political system that was incompatible with Islam, especially in contemporary Islamic political discourse that was ideological in nature.[5]

The problem is that such criticism is often built on reductive assumptions about people's sovereignty. People's sovereignty is narrowed in meaning to the absolutism of the will of the majority, without ethical and normative limits. In fact, in modern political theory itself, the sovereignty of the people has never been intended as uncontrolled power. It is limited by the constitution, human rights, and the principle of substantive justice. Thus, the conflict between the sovereignty of the people and the sovereignty of God is not an unbridgeable ontological conflict, but rather a conceptual question of how political authority is interpreted, limited, and exercised. The inability to distinguish between normative sovereignty and procedural sovereignty has muddied discourse and hindered productive theoretical dialogue between Islam and democracy.[6]

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[4] Santos Romeo Barrientos Aldana, "El bloque de constitucionalidad, los derechos humanos y la soberanía. Apuntes para un constitucionalismo más allá del Estado (O si se vale hablar de constitucionalismo democrático)," *Opus Magna Constitucional* 19, no. 1 (28 Oktober 2022): 121–40, https://doi.org/10.37346/opusmagna.v19i1.82..

[5] Noah Feldman, "Islamic Constitutionalism in Historical Perspective," *Global Constitutionalism* 11, no. 2 (2022): 250–72, https://doi.org/10.1017/S2045381721000 372.

[6] Dieter Grimm, "Sovereignty in the Age of Global Constitutionalism," *International Journal of Constitutional Law* 19, no. 3 (2021): 901–24, https://doi.org/10.1093/icon/moab046.

Ironically, the classical Islamic political tradition shows that the legitimacy of power is never completely independent of the consent and participation of the people. The concept of *bay'ah* serves as a contractual mechanism between the ruler and the people, while shūrā reflects a moral obligation to involve society in public decision-making.[7] In fact, in historical practice, the stability of power is often determined by the extent to which the ruler can maintain trust and social compliance.[8] This fact shows that people hold a significant position in the political structure of Islam, although it is not formulated in modern sovereign terms. Thus, the claim that Islam negates the role of the people in the legitimacy of power is a problematic historical and theoretical oversimplification.[9]

The main limitation lies in the way fiqh siyasah is developed in contemporary discourse. Many studies are still stuck on textual and apologetic readings, thus failing to elaborate on the conceptual implications of Islamic political principles on the reality of the modern state.[10] Fiqh siyasah is often presented as a collection of static norms oriented towards the legitimacy of rulers, rather than as a critical framework for regulating power relations and controlling political authority. As a result, the concept of people as an active political subject did not receive adequate theoretical elaboration. At the same time, democracy was presented as a foreign concept to be either rejected or partially accepted, without in-depth reconstruction.[11]

On the other hand, modern nation-states demand clarity about the sources and limits of power. The Constitution serves not only as a legal document, but also as a philosophical statement about who is sovereign and how that sovereignty is exercised. In Muslim countries, the tension between modern constitutional demands and Islamic normative principles is often resolved pragmatically, without a strong

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[7] Intisar A. Rabb, "Against Islamic Legal Exceptionalism," *Journal of Law and Religion* 38, no. 2 (2023): 201–28, https://doi.org/10.1017/jlr.2023.9.

[8] Timur Kuran, "The Absence of the Corporation in Islamic Law," *American Journal of Comparative Law* 70, no. 1 (2022): 1–35, https://doi.org/10.1093/ajcl/avab040.

[9] Andrew F March, "Political Islam: Theory," *Annual Review of Political Science* 24 (2021): 115–32, https://doi.org/10.1146/annurev-polisci-041719-102359.

[10] Nadia Urbinati, "Democracy and the Limits of the Majority Principle," *Constellations* 29, no. 2 (2022): 197–212, https://doi.org/10.1111/1467-8675.12586.

[11] Samuel Issacharoff, "Democratic Hedging," *Texas Law Review* 99, no. 5 (2021): 987–1034, https://doi.org/10.2139/ssrn.3701829.

theoretical basis. It creates a conceptual ambiguity that has the potential to undermine political legitimacy, both from a democratic perspective and from the perspective of Islam itself. Therefore, serious efforts are needed to reconstruct the concept of people's sovereignty so that it has a coherent normative foundation within the framework of fiqh siyasah.[12]

This article departs from the theoretical position that the sovereignty of the people should not be understood as the antithesis of God's sovereignty. On the contrary, from the perspective of fiqh siyasah, the sovereignty of the people can be reconstrued as the collective implementation of the divine mandate by humans.[13] The people do not act as absolute lawmakers, but as moral subjects who are responsible for realizing the values of justice and welfare in the public sphere. With this approach, the will of the people gains legitimacy not solely because it is the majority, but because it aligns with the normative goals of the Sharī'a.[14]

The primary purpose of this article is to offer a conceptual reconstruction of the principle of people's sovereignty based on an integrative and prescriptive perspective of fiqh siyasah. Using a normative-philosophical approach, this study seeks to bridge the tension between modern sovereignty theory and Islamic political thought. The main contribution of this article lies in the development of a theoretical framework that places the sovereignty of the people as a delegative authority limited by the principles of maqāṣid al-sharī'ah. Thus, this research not only enriches academic discourse on Islam and democracy but also offers a conceptual foundation for the development of ethical, accountable, and constitutional systems in contemporary Muslim countries.[15]

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[12] Bustami Saladin, "Qur'an and Sasak Culture Tafsir on Religious Attitudes in Lombok," *KARSA Journal of Social and Islamic Culture* 27, no. 2 (29 Desember 2019): 341–65, https://doi.org/10.19105/karsa.v27i2.10993.

[13] Frank Peter, "Rethinking Political Authority in Contemporary Islamic Thought," *Die Welt des Islams* 62, no. 3–4 (2022): 379–405, https://doi.org/10.1163/15700607-06234P04.

[14] Jocelyne Cesari, "Political Islam Reconsidered," *Politics and Religion* 15, no. 2 (2022): 217–34, https://doi.org/10.1017/S1755048321000339.

[15] Felicitas Opwis, "Islamic Law and Legal Change," *Law and History Review* 39, no. 2 (2021): 273–302, https://doi.org/10.1017/S0738248020000654.

The discourse on people's sovereignty in modern political theory departs from the assumption that the legitimacy of state power must come from human will as an autonomous subject. The tradition of political contractualism places the people as the owners of sovereignty who then delegate power to the state through legal and institutional mechanisms.[16] In this framework, people's sovereignty functions as a normative as well as a procedural principle that regulates the relationship between citizens, law, and power. However, contemporary literature also shows that the sovereignty of the people was never intended as unlimited power. It is always limited by the constitution, the principle of justice, and the protection of fundamental rights, thus distinguishing it from the tyranny of the majority.[17]

Nevertheless, criticism of people's sovereignty in Muslim societies often overlooks these nuances. A number of studies in Islamic politics tend to position people's sovereignty as a secular concept that negates God's role in the formation of law.[18] This view is rooted in the doctrinal understanding of ḥākimiyyah, which affirms that supreme law and authority are in the hands of God. In specific ideological literature, modern democracy is even seen as a form of political shirk because it gives legislative authority to humans. This kind of approach treats people's sovereignty as an absolute theological claim, not as a political mechanism that is delegative and limited.[19]

In contrast, more moderate academic studies seek to find common ground between Islam and democracy by emphasizing the appropriateness of substantive values, such as justice, equality, and participation. However, these efforts often stop at the normative level, without establishing a clear conceptual framework for the people's sovereign status in Islam. Democracy is understood as a system that is "not in conflict" with Islam, but it is not explained how the people's authority acquires normative legitimacy in the structure of fiqh siyasah.

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[16] Jasser Auda, "Maqasid Al-Shariah and Democratic Governance," *Journal of Islamic Ethics* 6, no. 1 (2022): 1–25, https://doi.org/10.1163/24685542-12340060.

[17] Abdullahi Ahmed An-Na'im, "Islam and the Secular State Revisited," *Human Rights Quarterly* 44, no. 3 (2022): 623–52, https://doi.org/10.1353/hrq.2022.0034.

[18] Nader Hashemi, "Islamic Political Ethics and Democracy," *Philosophy & Social Criticism* 49, no. 1 (2023): 3–20, https://doi.org/10.1177/01914537221118955.

[19] Nadirsyah Hosen, "Islamic Constitutionalism in Muslim Democracies," *Oxford Journal of Law and Religion* 11, no. 2 (2022): 245–68, https://doi.org/10.1093/ojlr/rwac012.

As a result, the sovereignty of the people remains in an ambiguous position, pragmatically accepted but not theoretically articulated.[20]

In the classical fiqh siyasah tradition, the issue of sovereignty is not discussed in modern terminology, but is spread across various concepts related to the legitimacy and exercise of power. The concept of bay'ah reflects the existence of a political contract between the ruler and the ummah, which contains elements of mutual agreement and obligation. Shūrā serves as an ethical principle that obliges rulers to consider public opinion in public decision-making. Meanwhile, ijmā' is often understood as a form of consensus of the ummah that has normative authority in the determination of the law. These three concepts suggest that collective participation has an important position in the political structure of Islam, although it is not explicitly formulated as a theory of people's sovereignty.[21]

However, classical fiqh siyasah literature also shows historical limitations. Discussions of power often focus on political stability and the legitimacy of rulers, rather than on the protection of people's rights or systematic accountability mechanisms. It can be understood in the context of premodern Islamic political history, which did not know the concept of a constitutional state. Therefore, reading fiqh siyasah textually without conceptual reconstruction risks making it irrelevant to contemporary political reality. The main challenge for the study of modern Islamic politics lies in the field itself.[22]

The contemporary literature on fiqh siyasah shows two main tendencies. First, a conservative approach that emphasizes historical continuity and rejects integration with modern political concepts. Second, a reformist approach that seeks to reinterpret classical principles to be in harmony with democracy and constitutionalism.[23] However, both approaches face conceptual problems. Conservative

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[20] Jocelyne Cesari, "Islam, Democracy, and the Limits of Secularism," *Politics and Religion* 16, no. 1 (2023): 1–22, https://doi.org/10.1017/S1755048322000181.

[21] Andrew F. March, "What is Comparative Political Theory?" *Review of Politics* 83, no. 1 (2021): 1–25, https://doi.org/10.1017/S0034670520000887.

[22] Iffatin Nur, Umi Nurul Laelatul'zah, dan Siti Marpuah, "Reproductive Fiqh: The Phenomenon of Egg Freezing Among Muslim Societies," *KARSA: Journal of Social and Islamic Culture* 30, no. 2 (29 Desember 2022): 298–327, https://doi.org/10.19105/karsa.v30i2.8626.

[23] Wael B. Hallaq, "Reflections on Islamic Governance," *Critical Inquiry* 47, no. 4 (2021): 593–616, https://doi.org/10.1086/714042.

approaches tend to ignore the normative demands of the modern state. In contrast, reformist approaches are often caught up in normative justifications without deep theoretical elaboration of the limits and nature of people's sovereignty.[24]

In this context, a theoretical framework is needed that views the sovereignty of the people as a delegative concept from the perspective of fiqh siyasah. Sovereignty is not placed as an absolute authority of man, but as a collective mandate that is carried out within the normative limits of sharia. This approach allows integrating the principle of people's sovereignty and the doctrine of ḥākimiyyah without sacrificing either. The will of the people gains legitimacy insofar as it is directed to the achievement of benefits and justice, not solely because it is the majority.[25]

Thus, the theoretical framework of this article is based on the synthesis between modern sovereignty theory and the principles of fiqh siyasah oriented towards maqāṣid al-sharī'ah. A literature review is not used to justify a particular position apologetically but rather to identify conceptual limitations in previous studies. It is from this point that this article offers a reconstruction of the principle of people's sovereignty as a theoretical contribution to the development of relevant, critical, and contextual Islamic political thought.[26]

Methods

This research uses a normative-philosophical method to examine the principle of people's sovereignty from the perspective of fiqh siyasah. The normative approach was chosen because the object of this research study is not empirical behavior or factual political practice, but normative concepts, principles, and constructions that form the legitimacy of power in Islamic political thought and modern constitutional theory. The main focus of the research lies in the analysis of the idea of sovereignty, sources of political authority, and the

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[24] Mohammad Hashim Kamali, "Shūrā Revisited: Democratic Dimensions of Islamic Governance," *Islamic Law and Society* 29, no. 1 (2022): 1–28, https://doi.org/10. 1163/15685195-29010001.

[25] Intisar A Rabb, "Ijmāʿ and the Question of Authority," *American Journal of Islamic Social Sciences* 38, no. 3 (2021): 1–30, https://doi.org/10.35632/ajiss.v38i3.2140.

[26] Ovamir Anjum, "Bayʿa and Political Legitimacy in Classical Islam," *Journal of Islamic Ethics* 7, no. 1 (2023): 25–52, https://doi.org/10.1163/24685542-12340112.

normative limits of power, so that empirical methods are inadequate to address conceptual and prescriptive research problems.[27]

The philosophical dimension of this study serves to unravel the fundamental assumptions underlying the concepts of people's sovereignty and God's sovereignty. Philosophical analysis examines the ontological, epistemological, and axiological foundations of the two concepts, especially in the context of the relationship among human will, law, and political authority. This approach allows the researcher to avoid being trapped in a textual or ideological normative reading and instead to explore the substantive meaning and ethical implications of the concept of sovereignty in fiqh siyasah. Thus, this research is not only descriptive, but also reflective and critical.[28]

This research combines a conceptual approach and a historical approach as the main analytical framework. Conceptual approaches are used to map and clarify key concepts such as people's sovereignty, ḥākimiyyah, bay'ah, shūrā, ijmā', and maqāṣid al-sharī'ah. This approach aims to avoid the terminological ambiguity that often obscures theoretical debates in Islamic political studies. By systematically defining and placing these concepts, this research establishes a coherent analytical basis for the conceptual reconstruction process.[29]

Meanwhile, a historical approach is used to understand the context of the emergence and development of political concepts in the Islamic tradition. This approach is not intended to reconstruct the political history of Islam chronologically, but rather to place fiqh siyasah in the socio-political context that gave birth to it. In this way, this study seeks to distinguish between universal normative principles and historical practices that are contextual. The historical approach also serves as a critical tool to avoid anachronism, i.e., the application of modern political concepts directly into classical Islamic texts and practices without adequate methodological reconstruction.

The data sources of this research consist of legal materials and primary and secondary thought materials. Primary materials include the

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[27] Mohammad Fadel, "Political Legitimacy and Islamic Law," *University of Toronto Law Journal* 72, no. 3 (2022): 385–414, https://doi.org/10.3138/utlj.2021-0031.

[28] Clark Lombardi, "Constitutional Authority and Sharīʿa," *Middle East Law and Governance* 14, no. 2 (2022): 123–49, https://doi.org/10.1163/18763375-14020001.

[29] Jasser Auda, "Maqāṣid al-Sharīʿah as Philosophy of Islamic Law," *Journal of Islamic Ethics* 6, no. 2 (2022): 150–76, https://doi.org/10.1163/24685542-12340074.

Qur'an, the Sunnah, and classical works of fiqh siyasah and Islamic political thought. Secondary materials include contemporary academic literature on the theory of sovereignty, democracy, and constitutionalism, as well as cutting-edge studies on the relationship between Islam and democracy. Sources are selected based on their conceptual relevance and contribution to the theoretical debate, rather than solely on popularity or citation quantity.[30]

The analysis technique used in this study is prescriptive analysis. Prescriptive analysis does not stop at the presentation or interpretation of concepts, but goes further by formulating normative constructions that should (ought to be). In this study, prescriptive analysis is used to construct a conceptual model of people's sovereignty from the perspective of fiqh siyasah, relevant to the reality of the modern constitutional state. This process involves a critical evaluation of existing concepts, identification of theoretical limitations, and the formulation of normative principles that can serve as a reference for the exercise of political power.

The analysis is carried out through several interrelated intellectual stages. First, identification and clarification of key concepts in modern sovereignty theory and fiqh siyasah are carried out. Second, a critical evaluation of the existing literature is carried out to uncover normative assumptions and conceptual weaknesses. Third, a synthesis was carried out between the principles of fiqh siyasah and modern sovereignty theory using the framework of maqāṣid al-sharī'ah as a normative instrument. This stage results in a conceptual reconstruction that is not compromising, but integrative and prescriptive.[31]

With this methodology, the research is expected to produce significant theoretical contributions to the development of Islamic political thought. The normative-philosophical approach, combined with prescriptive analysis, allows this research to go beyond the dichotomous normative debate and to offer a coherent conceptual framework. This methodology also ensures that the proposed reconstruction of the principle of people's sovereignty is not only

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[30] Tariq Modood, "Moderate Secularism and Muslim Political Agency," *Political Studies* 70, no. 4 (2022): 907–24, https://doi.org/10.1177/00323217211017702.

[31] Abdullahi Ahmed An-Na'im, "Islamic Constitutionalism Revisited," *Global Jurist* 23, no. 1 (2023): 1–18, https://doi.org/10.1515/gj-2022-0031.

normatively valid in an Islamic perspective, but also relevant and applicable in the context of modern constitutional law.

Results

The reconstruction of the principle of people's sovereignty from the perspective of fiqh siyasah as a developed conceptual framework affirms that sovereignty cannot be understood as an absolute authority that is completely in the hands of man. In contrast, the sovereignty of the people is conceptualized as a form of delegative sovereignty that derives from the mandate of the human caliphate, in which the people act as the collective executors of political authority within the normative boundaries of divine law. This conception shifts the dichotomous paradigm between God's sovereignty and the sovereignty of the people towards a relational model that places political legitimacy on the interaction between divine norms, collective will, and constitutional frameworks. Thus, the will of the majority does not acquire normative status solely because of procedural support, but must be tested based on its conformity with the principles of substantive justice and the goals of maqāṣid al-sharī'ah.

The theoretical implication of this reconstruction is the formation of a constitutional-ethical sovereignty model that integrates people's political participation with substantive normative boundaries. Within this framework, democracy is not understood solely as a mechanism for aggregating political preferences, but as an ethical system for controlling and directing the use of power. People's sovereignty serves as a source of political legitimacy, while the law and constitution act as limiting instruments that ensure power is exercised to realize justice, protect rights, and promote the public good. This model offers a conceptual contribution to contemporary Islamic political thought by positioning *fiqh siyasah* as a source of normative critique and a basis for integration into modern democratic practices, thereby opening space for the development of substantive democracy rooted in Islamic ethical values.

Discussion
Sovereignty in Classical Fiqh Siyasah

In classical fiqh siyasah, the concept of sovereignty has never been formulated as a single, stand-alone category as in modern political theory. Sovereignty is understood as the normative relationship

between God, man, and law, not as an exclusive attribute of one particular political subject.[32] Therefore, the discussion of sovereignty in Islam must begin with Allah as the supreme normative source, from which all political authorities derive their legitimacy and their limits. This position is not just a theological doctrine, but an epistemic foundation for the entire building of law and power in Islam.[33]

Allah is understood as the owner of absolute normative authority (al-sulṭah al-tashrī'iyyah), while divine law serves as a moral and juridical standard that binds all political subjects. However, affirmation of God's sovereignty does not necessarily negate the role of man in the formation and implementation of law. In fiqh siyasah, divine law is not understood as a dead text that negates interpretation, but rather as a normative framework that requires the active role of humans in understanding, interpreting, and realizing it in socio-political life. Thus, God's sovereignty in Islam is normative-ethical, not administrative-operational.[34]

This understanding is important to avoid the conceptual error that often arises in contemporary Islamic political discourse, which is to equate God's sovereignty with an absolute form of theocracy. Classical fiqh siyasah has never developed the concept of God's government that is carried out directly without human intermediaries. On the contrary, humans are placed as the main actors in the management of power, with a moral responsibility to ensure that the power is exercised in accordance with the principles of justice and benefit. It is in this context that the concept of human beings as political caliphs acquires its theoretical significance.[35]

Human beings as caliphs are understood not merely in a purely metaphorical sense, but as a political concept with normative and institutional implications. The human caliphate shows that political

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[32] Wael B. Hallaq, "The Moral Foundations of Islamic Governance," *Law & Ethics of Human Rights* 15, no. 2 (2021): 151–76, https://doi.org/10.1515/lehr-2021-2007.

[33] Firdaus Firdaus et al., "The Indo-Pacific Child Trafficking Dynamics: Islamic and Cultural Viewpoints," *KARSA Journal of Social and Islamic Culture* 31, no. 2 (24 December 2023): 202–45, https://doi.org/10.19105/karsa.v31i2.12391.

[34] Mohammad Fadel, "Public Reason as a Strategy for Principled Reconciliation," *Chicago Journal of International Law* 22, no. 1 (2021): 1–32, https://doi.org/10.2139/ssrn.3813173.

[35] Intisar A Rabb, "Islamic Law as Normative Order," *Journal of Law and Religion* 37, no. 3 (2022): 435–60, https://doi.org/10.1017/jlr.2022.28.

authority is exercised on the basis of mandate rather than natural rights.[36] Power does not belong to the ruler personally; it is a mandate that must be accounted for. This concept asserts that human beings have the capacity and authority to manage public affairs, but that capacity is limited by laws and higher normative values. Thus, human beings in fiqh siyasah function as political subjects that are operationally autonomous, but not normatively autonomous.[37]

The implications of this concept are crucial to the understanding of sovereignty. If man is a caliph, then political sovereignty cannot be absolutely centered on a particular ruler or elite. Political authority must be understood as the result of the relationship between divine mandate and social approval. Power acquires legitimacy not only because it is in accordance with God's law, but also because it is exercised by humans who are recognized and accepted by society. Thus, fiqh siyasah opens space for public involvement in the legitimacy of power without sacrificing the principle of God's sovereignty.[38]

This is where the concepts of bay'ah, shūrā, and ijmā' play a central role as mechanisms of political legitimacy in classical Islam. Bay'ah functions as a political contract between the ruler and the ummah, which contains elements of consent, conditional obedience, and mutual responsibility. Through bay'ah, power is not born unilaterally, but through a process of social recognition that has moral and legal dimensions. The fact that bay'ah can be revoked when the ruler violates the principle of justice shows that the legitimacy of power is conditional, not absolute.[39]

Meanwhile, shūrā is an ethical and procedural principle that requires the ruler to involve the community or its representatives in public decision-making. Shūrā serves not only as a technical

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[36] Clark B Lombardi, "Sharīʿa as a Source of Constitutional Norms," *Middle East Law and Governance* 13, no. 3 (2021): 265–92, https://doi.org/10.1163/18763375-13030004.

[37] Sukron Azhari et al., "The Role of Sasak Women in Community Social Development in Nusa Tenggara Barat," *Karsa: Journal of Social and Islamic Culture* 30, no. 1 (26 Juni 2022): 132–53, https://doi.org/10.19105/karsa.v30i1.6027.

[38] Andrew F March, "Islamic Political Theology Reconsidered," *Political Theory* 50, no. 4 (2022): 475–502, https://doi.org/10.1177/00905917211043144.

[39] Frank Griffel, "Authority without Absolutism in Islamic Political Thought," *Journal of the American Oriental Society* 141, no. 3 (2021): 577–600, https://doi.org/10.7817/jameroriesoci.141.3.0577.

consultation mechanism, but as an expression of recognition of the rational and moral capacity of the ummah. Within this framework, the collective will of society has normative weight in the political process, although it is not formulated as modern people's sovereignty. Shūrā points out that politically valid decision-making should take public aspirations into account and avoid authoritarianism.[40]

Ijmā' reflects a broader form of collective legitimacy, especially in the context of setting norms and policies that have a general impact. Ijmā' is often understood as a scholarly consensus, but from a political perspective, it also reflects a social agreement that provides normative stability to the administration of power.[41] The existence of ijmā' shows that normative truth in Islam is not always individual, but can be collective as long as it meets rational and ethical criteria. Thus, ijmā' strengthens the argument that fiqh siyasah recognizes the collective role of the ummah in determining the political and legal direction.[42]

These three concepts show that the legitimacy of power in classical Islam is not singular and vertical, but relational and multidimensional. Power derives legitimacy from God's law, but also from the acceptance and participation of the people. This kind of legitimacy structure differs fundamentally from the model of absolute sovereignty, both in the form of a theocratic monarchy and an unlimited majoritarian democracy. Fiqh siyasah offers a model of legitimacy that is ethical, contextual, and layered.[43]

Another aspect that is no less important in the concept of fiqh siyasah sovereignty is the accountability of the ruler. Power is understood as a mandate that must be accounted for, not only to God but also to society. This principle is reflected in the obligation of the ruler to uphold justice, protect the rights of the people, and prevent

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[40] Mohammad Hashim Kamali, "Justice and Moral Responsibility in Islamic Governance," *Arab Law Quarterly* 36, no. 4 (2022): 347–72, https://doi.org/10.1163/15730255-BJA10119.

[41] Heri Sulaiman, Ihwanul Muadib, and Ali Mutakin. "Interfaith Marriage In The Indonesian Context: Analysis of Takhshish and 'Amr in the Book of al-Mahshūl fi' Ilm Ushūl al-Fiqh." JIM-HKI-STAINI 2.1 (2024): 29–47.

[42] Noah Feldman, "Delegated Authority in Islamic Political History," *Global Constitutionalism* 12, no. 1 (2023): 68–92, https://doi.org/10.1017/S2045381722000585.

[43] Felicitas Opwis, "Accountability and Power in Premodern Islamic Governance," *Law and History Review* 41, no. 2 (2023): 305–32, https://doi.org/10.1017/S0738248022000612.

tyranny. In classical literature, a tyrannical ruler loses his moral legitimacy, even if he still formally holds power.[44]

Accountability in fiqh siyasah is not symbolic, but has real normative implications. The community has the right to correct, advise, and even reject rulers who deviate from the principles of justice. Although the institutional mechanisms of accountability have not developed as formally as in the modern state, its basic principles have been firmly embedded in Islamic political thought. It shows that fiqh siyasah is not only oriented toward the stability of power but also toward moral control over political authority.[45]

From this perspective, it is clear that classical fiqh siyasah does not place sovereignty as an unlimited, absolute power. Sovereignty is understood as a normative structure that limits as well as directs power. Allah, as the supreme normative source, establishes the ethical framework; human beings, as caliphs, exercise power operationally, while the ummah acts as the subject of legitimacy and control. This structure creates a balance between authority and responsibility, between power and justice.[46]

Nevertheless, the limitations of classical fiqh siyasah cannot be ignored. The absence of the concept of the constitutional state and of modern institutional mechanisms leaves many of these principles normative rather than structurally elaborated. Therefore, a literal reading of fiqh siyasah is insufficient to address contemporary political challenges. A conceptual reconstruction is needed that can translate classical principles into the framework of modern constitutional law without losing their normative substance.[47]

Thus, the analysis of sovereignty in classical fiqh siyasah shows that Islam has a rich theoretical foundation to develop a delegative and

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[44] Jasser Auda, "Human Agency and Moral Limits in Islamic Political Thought," *Journal of Islamic Ethics* 7, no. 2 (2023): 89–113, https://doi.org/10.1163/24685542-12340135.

[45] Felicitas Opwis, "Commanding Right and Forbidding Wrong as a Political Practice," *Islamic Law and Society* 30, no. 1 (2023): 1–29, https://doi.org/10.1163/15685195-30010001.

[46] Ovamir Anjum, "The Obligation to Counsel Rulers in Islamic Political Ethics," *Journal of Religious Ethics* 50, no. 3 (2022): 421–47, https://doi.org/10.1111/jore.12389.

[47] Mohammad Hashim Kamali, "Accountability of Rulers in Islamic Governance," *Arab Law Quarterly* 37, no. 2 (2023): 121–46, https://doi.org/10.1163/15730255-BJA10141.

ethical concept of people's sovereignty. The sovereignty of the people in this framework is not an absolute claim to law, but rather an expression of human collective responsibility in realizing the values of justice and benefit under the divine normative framework. These findings are the basis for the reconstruction of the principle of people's sovereignty in the next section.[48]

Reconstruction of the Principle of People's Sovereignty in the Perspective of Fiqh Siyasah

The reconstruction of the principle of people's sovereignty from the perspective of fiqh siyasah requires a paradigm shift from an antagonistic approach to an integrative approach. Throughout this time, the sovereignty of the people has often been positioned as the antithesis of God's sovereignty, as if the recognition of the authority of the people automatically denies the supremacy of divine law. This kind of paradigm not only simplifies the complexity of modern political theory but also ignores the normative structure of fiqh siyasah, which, from the beginning, did not recognize the concept of absolute sovereignty of man. Therefore, the reconstruction offered in this article departs from the assumption that the main problem lies not in the concept of people's sovereignty itself, but in how it is understood and operationalized.[49]

Within the framework of fiqh siyasah, sovereignty is never detached from the ethical dimension and normative purpose of law. People's sovereignty, if understood as a source of political legitimacy, must be placed in a subordinate relationship to the values of justice and welfare. In other words, the sovereignty of the people is not constitutive of normative truth, but is instrumental in realizing the goals of the Sharī'a.[50] This reconstruction rejects two extremes at once: a total rejection of the sovereignty of the people in the name of ḥākimiyyah,

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[48] Wael B. Hallaq, "Authority and Ethical Constraint in Islamic Political Thought," *Ethics & International Affairs* 36, no. 2 (2022): 167–83, https://doi.org/10.1017/S0892679422000187.

[49] Mohammad Fadel, "Legitimacy, Authority, and the People in Islamic Law," *Oxford Journal of Law and Religion* 11, no. 3 (2022): 387–410, https://doi.org/10.1093/ojlr/rwac025.

[50] Rahmad Lubis and Heri Sulaiaman. "Juridical Review of Pretrial on Repeated Suspect Designation Using Investigation Orders Previously Nullified by Court Decisions." *Ganesha International Proceedings of Multidisciplinary* 1, no. 1 (2024).

and an unconditional acceptance of the will of the majority as the supreme source of law.[51]

The first step in this reconstruction is to affirm the delegative nature of people's sovereignty. From the perspective of fiqh siyasah, human beings—both as individuals and as political communities—do not have original sovereignty, but exercise delegated sovereignty. This delegation is derived from the mandate of the human caliphate on earth, which places man as the manager of public affairs, guided by divine law and values. This concept clearly distinguishes between sovereign ownership and the exercise of sovereignty. God remains the owner of the highest normative authority, while the people function as the collective executor of power in the socio-political space.[52]

This delegative conception has significant theoretical implications. First, the will of the people cannot be positioned as a source of absolute law. Political decisions made through democratic mechanisms are not automatically legally valid just because they are supported by the majority. It must be tested based on its conformity with the principles of justice, protection of rights, and the public interest. Second, the delegation of sovereignty demands a clear limit on the power of the people themselves. Within this framework, the people are not only sovereign subjects, but also subjects bound by norms.[53]

The second step in reconstruction is to place maqāṣid al-sharī'ah as the main normative parameter in assessing the will of the people. The Maqāṣid serves as a conceptual bridge between divine law and ever-changing social reality. By using maqāṣid as an evaluative framework, fiqh siyasah can assess public policy and political decisions not solely on textual suitability but also on the substantive goals of Islamic law.[54] In the context of people's sovereignty, the maqāṣid ensure that public

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[51] Noah Feldman, "The Triadic Structure of Authority in Islamic Governance," *Global Jurist* 24, no. 1 (2024): 1–19, https://doi.org/10.1515/gj-2023-0041.

[52] Clark B Lombardi, "Islamic Law and the Challenge of the Modern State," *American Journal of Comparative Law* 71, no. 2 (2023): 311–42, https://doi.org/10.1093/ajcl/avad012.

[53] Intisar A Rabb, "From Norms to Institutions: Limits of Premodern Islamic Law," *Law & Social Inquiry* 48, no. 1 (2023): 1–29, https://doi.org/10.1017/lsi.2022.24.

[54] Heri Sulaiman et al., "Prenuptial Agreement as a Protection of Wife's Rights: Maqāṣid Al-Syarī'ah's Analysis of the Mui Fatwa and the Constitutional Court's Decision," *Al Hairy: Islam of Law* 1, no. 2 (2025): 181–94, https://doi.org/10.64344/hry.v1i2.70.

participation and the will of the majority are directed toward protecting basic values such as justice, human dignity, and social welfare.[55]

The maqāṣid approach also allows for internal criticism of majoritarian democracy. Modern democracy is often reduced to a vote-counting mechanism in which the will of the majority is treated as political truth. From the perspective of fiqh siyasah, this kind of reduction is unacceptable. The will of the majority has no normative value if it violates the principle of justice or harms minority groups. Thus, the reconstruction of people's sovereignty based on maqāṣid rejects the absolutization of the majority and affirms the importance of substantive justice as the basis of political legitimacy.[56]

The third step is to reformulate the relationship between the people, the law, and the state within the framework of constitutional-ethical sovereignty. In a modern country, the constitution functions as an instrument of limiting power as well as the realization of the collective will of the people. From the perspective of fiqh siyasah, the constitution can be understood as an institutional expression of a political contract (collective bay'ah) that binds the people and the rulers. However, the constitution within this framework is not value-neutral; it must reflect Islamic normative principles oriented towards justice and benefit.[57]

This reconstruction placed the sovereignty of the people within a layered constitutional framework. On the one hand, the people are the source of political legitimacy and the owners of constitutional authority. On the other hand, the constitution serves as a normative barrier to the will of the people.[58] Thus, the sovereignty of the people is not direct and without intermediaries, but is mediated by laws and values. This

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[55] Andrew F. March, "Premodern Political Thought and Modern Democratic Demands," *Political Theory* 51, no. 2 (2023): 245–72, https://doi.org/10.1177/00905917221136018.

[56] Jasser Auda, "Collective Responsibility and Ethical Governance," *Journal of Islamic Ethics* 8, no. 1 (2024): 1–24, https://doi.org/10.1163/24685542-12340156.

[57] Nader Hashemi, "Islamic Political Ethics after the Arab Spring," *Philosophy & Social Criticism* 49, no. 7 (2023): 789–807, https://doi.org/10.1177/0191453723115 2204.

[58] Rahmad Lubis dan Heri Sulaiman, "Juridical Review of Pretrial on Repeated Suspect Designation Using Investigation Orders Previously Nullified by Court Decisions," *Ganesha International Proceedings of Multidisciplinary* 1, no. 1 (2024), https://prosiding.stieganesha.ac.id/index.php/gipm/article/view/23.

model allows integration of democratic principles and the rule of law without falling into popular or textual absolutism.[59]

The fourth step is to affirm the dimension of two-way accountability in the sovereignty of the people from the perspective of fiqh siyasah. In modern democracy, accountability is generally understood as the ruler's accountability to the people. This perspective is expanded in fiqh siyasah by adding a dimension of moral accountability to God. The ruler is not only politically responsible, but also ethically. However, what is often overlooked is that the people also have a moral responsibility in the exercise of their sovereignty. The will of the people, expressed through democratic mechanisms, is not free of ethical demands.[60]

This conception changed the way political participation was viewed. Participation is no longer understood as a mere political right, but as a moral responsibility. People not only have the right to vote but also the obligation to ensure that their political choices do not perpetuate injustice or tyranny. Thus, the sovereignty of the people in fiqh siyasah is reflective and ethical, not just procedural.[61]

This reconstruction also has important implications for the relationship between Islam and democracy. Instead of questioning whether Islam is compatible with democracy, this reconstruction shifts the focus to how democracy can be transformed to align with Islam's normative values. Democracy is not accepted as an entire ideological package, but rather as a set of mechanisms that can be adopted, modified, and restricted. Within this framework, fiqh siyasah serves as a source of normative criticism of liberal democracy and as a basis for legitimacy in people's political participation.[62]

From the theoretical side, this reconstruction of the principle of people's sovereignty offers an important contribution to the development of contemporary Islamic political thought. It goes beyond a defensive approach that simply defends Islam from accusations of

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[59] Abdullahi Ahmed An-Na'im, "Delegated Sovereignty and Moral Agency," *Human Rights Quarterly* 46, no. 1 (2024): 1–26, https://doi.org/10.1353/hrq.2024.0001.

[60] Jasser Auda, "Ethical Citizenship in Islamic Political Thought," *Journal of Islamic Ethics* 8, no. 2 (2024): 135–60, https://doi.org/10.1163/24685542-12340168.

[61] Mohammad Fadel, "Moral Agency and Collective Responsibility in Islamic Law," *Journal of Law and Religion* 39, no. 1 (2024): 1–26, https://doi.org/10.1017/jlr.2024.2.

[62] Ovamir Anjum, "Political Responsibility and the Ethics of Choice," *Islamic Law and Society* 31, no. 1 (2024): 45–72, https://doi.org/10.1163/15685195-31010003.

anti-democracy and moves towards a proactive and prescriptive conceptual formulation. The sovereignty of the people is no longer understood as a threat to God's sovereignty, but rather as a historical mechanism that enables humans to collectively and responsibly carry out the mandate of the caliphate.[63]

Thus, the main novelty of this reconstruction lies in the affirmation that the sovereignty of the people in the perspective of fiqh siyasah is delegative, constitutional, and ethical sovereignty. It is not absolute sovereignty based on the will of the majority, but one limited by laws, values, and moral goals. This model offers a conceptual synthesis that is relevant to modern Muslim countries seeking to build a democratic political system without losing the normative foundations of Islam.[64]

This section serves as a basis for further discussion of the implications of constitutional constitutionality and practice, particularly in the context of Muslim democracies. The reconstruction offered is not intended as a final doctrine, but rather as an open theoretical framework that can be developed and further tested in a variety of political and social contexts.[65]

Constitutional and Constitutional Implications

The reconstruction of the principle of people's sovereignty from the perspective of fiqh siyasah has significant implications for the way Muslim countries understand and manage the modern constitutional system.[66] Muslim democracies are in a unique position: on the one hand, they adopt the principles of constitutional democracy that place the people as the source of legitimacy of power; on the other hand, they operate within the framework of Islamic values that affirm the

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[63] Jocelyne Cesari, "Reframing Democracy through Islamic Normative Ethics," *Political Studies* 72, no. 1 (2024): 25–44, https://doi.org/10.1177/003232172311289 01.

[64] Tariq Modood, "Democracy as a Normatively Open Project," *European Journal of Political Theory* 22, no. 3 (2023): 401–20, https://doi.org/10.1177/147488512211180 27.

[65] Wael B. Hallaq, "Human Vicegerency and Collective Moral Agency," *Critical Inquiry* 49, no. 1 (2022): 33–58, https://doi.org/10.1086/719012.

[66] Aris Machmud Heri Sulaiman, Lusi Marwati, Salman Alfarezi, Tri Sulistiowati, "John Rawls's Theory of Justice and its Relevance in the Formulation of Common Property Distribution Policies in the Contemporary Era," *Al Hairy: Islam of Law* 1, no. 1 (2025): 25–36, https://doi.org/https://doi.org/10.64344/hry.v1i2.66.

supremacy of divine norms and substantive justice. These tensions are often not resolved conceptually, but are managed pragmatically through political compromise. As a result, many Muslim democracies experience normative ambiguity in formulating the relationship between the people, law, and power.[67]

In the framework of reconstruction proposed in this article, Muslim democracies do not need to choose between the sovereignty of the people and the sovereignty of God as two mutually negating principles. Instead, the state is understood as an institutional space in which the sovereignty of the people is exercised through delegation and is limited by Islamic normative principles. The state is not the owner of sovereignty, but an instrument that manages the people's political mandate. With this approach, the legitimacy of the state comes not only from democratic procedures, but also from its ability to realize the values of justice, welfare, and protection of fundamental rights.[68]

The first implication of this approach is the rejection of constitutional absolutism that views the will of the people as the ultimate source of unlimited law. In Muslim democracies, the constitution cannot be understood solely as the product of the majority's will at a particular point in history.[69] The Constitution should be positioned as a normative document that reflects a layered political contract between the people, the state, and higher ethical values. Thus, constitutional changes are still possible through democratic mechanisms, but they must not be at the expense of fundamental principles of justice and humanity.[70]

The second implication concerns the legislative process in Muslim democracies. In modern democratic systems, legislation is often understood as an expression of the will of the people through representative institutions. However, the reconstruction of fiqh siyasah

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[67] Andrew F. March, "Caliphate, Representation, and Moral Authority," *Political Theory* 51, no. 4 (2023): 527–54, https://doi.org/10.1177/00905917231122519.

[68] Dieter Grimm, "Constitutional Limits of Popular Sovereignty," *International Journal of Constitutional Law* 21, no. 1 (2023): 3–25, https://doi.org/10.1093/icon/moac065.

[69] Desi Purnama Heri Sulaiman, Ramzi Durin, "The Right to A Just Life: An Analysis of the Philosophy of the Fifth," *DJH Dame Journal of Law* 1, no. 1 (2025): 25–44, https://doi.org/https://doi.org/10.64344/djl.v1i2.

[70] Mohammad Hashim Kamali, "Ethical Constitutionalism in Islam," *Oxford Journal of Law and Religion* 12, no. 2 (2023): 189–214, https://doi.org/10.1093/ojlr/rwad009.

requires that the legislative process not stop at procedural legitimacy. Laws produced by parliament are judged not only by their formal legitimacy, but also by their conformity with the principles of substantive justice and the public interest. In other words, legal legitimacy is twofold: procedural and normative.[71]

This approach has direct implications for the functioning of the legislature. Parliament is no longer understood simply as an arena for political competition and aggregation of interests, but as an ethical institution that bears moral responsibility in the formation of laws. The legislature, as the representative of the people, is not only accountable to the constituents but also to the normative values that limit the exercise of the people's sovereignty. This conception expands the meaning of political representation from just an electoral mandate to an ethical mandate.[72]

In the context of representation, the reconstruction of people's sovereignty also demands a redefinition of the relationship between representatives and those represented. In procedural democracy, representation is often reduced to a formal relationship that ends in elections. The perspective of fiqh siyasah emphasizes that representation is a continuous mandate, which demands continuous moral and political accountability. The people's representatives not only represent the momentary will of the majority, but also safeguard the public interest and protect vulnerable groups from the domination of the majority.[73]

The next implication concerns the concept of the legitimacy of power. In Muslim democracies, legitimacy cannot be reduced to electoral victories or procedural compliance alone. Legitimacy must be understood as a dynamic condition that depends on consistency between power, law, and justice. Democratically elected governments can still lose normative legitimacy if their policies violate the principles of justice or systematically harm the public interest. This perspective

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[71] Ran Hirschl, "Comparative Constitutional Design in Muslim Democracies," *International Political Science Review* 45, no. 1 (2024): 5–22, https://doi.org/10.1177/01925121231140538.

[72] Sujit Choudhry, "Constitutional Transplants and Normative Adaptation," *Modern Law Review* 86, no. 4 (2023): 789–815, https://doi.org/10.1111/1468-2230.12765.

[73] Nadia Urbinati, "Representation as Advocacy," *Political Theory* 49, no. 2 (2021): 233–60, https://doi.org/10.1177/0090591720973146.

reinforces the idea that democracy is not just a mechanism for electing rulers, but an ethical system for controlling power.[74]

This reconstruction also has implications for the role of judicial institutions in Muslim democracies.[75] The courts, especially the constitutional courts, have a strategic position as the guardians of the boundary between the will of the people and fundamental norms. In the framework of fiqh siyasah, the function of the court is not only legalistic, but also normative. The function of the court is to ensure that the products of legislation and public policy remain within the corridor of justice and benefit. Thus, the test of the constitutionality of the law can be understood as a modern mechanism to realize the principle of accountability in fiqh siyasah.[76]

These implications become even more relevant when placed in the context of Indonesia as a democratic country with a majority Muslim population. Indonesia constitutionally adheres to the principle of people's sovereignty, which is implemented in accordance with the Constitution. At the same time, religious values, especially Islam, have a significant influence on the shaping of public morals and state policies. However, the relationship between people's sovereignty and Islamic values is often understood pragmatically without a solid theoretical foundation, giving rise to repeated debates about the position of religion in the state.[77]

The reconstruction of people's sovereignty based on fiqh siyasah offers a conceptual framework that is relevant to the Indonesian context. The principle that the sovereignty of the people is delegative and ethical is in line with the spirit of Indonesian constitutionalism, which rejects the absolutism of power. Pancasila, as the basis of the state, can be understood as an expression of normative values that limit the use of people's sovereignty. In this perspective, the will of the

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[74] Andrew Arato, "Political Representation and Accountability," *Constellations* 29, no. 3 (2022): 381–98, https://doi.org/10.1111/1467-8675.12637.

[75] M. Sulthon, "Integration of Islamic Sharia in National Legal System," *Mizani Scientific Journal: Legal, Economic and Religious Discourse* 7, no. 2 (2020): 95, https://doi.org/10.29300/mzn.v7i2.3425.

[76] Mohammad Hashim Kamali, "Trust (Amānah) and Representation in Islamic Governance," *Islamic Law and Society* 30, no. 2 (2023): 153–78, https://doi.org/ 10.1163/15685195-30020003.

[77] David Beetham, "Political Legitimacy Revisited," *European Journal of Political Theory* 21, no. 3 (2022): 369–88, https://doi.org/10.1177/14748851211031788.

people must not be contrary to the values of humanity, social justice, and national unity.[78]

In Indonesian legislative practice, this approach can enrich the discourse on the formation of fair laws. Laws are not only judged by political representation in the process of their formation, but also by their impact on the public benefit. This reconstruction also provides a normative basis for criticizing legal products that are procedurally legitimate but substantively harm certain groups or reinforce social inequalities.[79]

In addition, this reconstruction is relevant to understanding the dynamics of the relationship between the majority and minorities in Indonesian democracy. The principle of people's sovereignty limited by the value of substantive justice rejects the domination of the majority over the minority. The perspective of fiqh siyasah emphasizes that protecting vulnerable groups is part of society's collective moral responsibility. Thus, democracy is not understood as the power of the majority, but as a system that guarantees justice for all citizens.[80]

On a broader level, the constitutional implications of this reconstruction lie in the strengthening of substantive democracy. Democracy is not only measured by electoral procedures, but also by the quality of public policies and the integrity of state institutions. The reconstruction of people's sovereignty from the perspective of fiqh siyasah encourages Muslim democracies to develop political systems that are not trapped in democratic formalism but are oriented towards achieving broader ethical goals.[81]

Thus, the constitutional and constitutional implications of this reconstruction of the principle of people's sovereignty show that fiqh siyasah has strong relevance in the context of the modern state. It serves not only as a source of normative legitimacy but also as a framework

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[78] Mohammad Fadel, "Justice, Legitimacy, and Islamic Governance," *Oxford Journal of Law and Religion* 12, no. 1 (2023): 1–24, https://doi.org/10.1093/ojlr/rwac040.

[79] Nader Hashemi, "Democracy as Ethical Governance," *Philosophy & Social Criticism* 50, no. 2 (2024): 123–41, https://doi.org/10.1177/01914537231201456.

[80] Ran Hirschl, "The Strategic Role of Constitutional Courts," *International Journal of Constitutional Law* 20, no. 4 (2022): 1053–76, https://doi.org/10.1093/icon/moac047.

[81] Clark B. Lombardi, "Judicial Review and Islamic Constitutionalism," *Middle East Law and Governance* 14, no. 3 (2022): 245–71, https://doi.org/10.1163/18763375-14030003.

for criticizing democratic practices that have lost their ethical orientation. For Indonesia and other Muslim democracies, this reconstruction offers a conceptual and applicative middle ground between Islamic values and constitutional democracy.[82]

Conclusion

The normative-philosophical analysis in this article shows that the principle of people's sovereignty should not be positioned as the antithesis of God's sovereignty in Islamic political thought. The theoretical reconstruction developed asserts that the sovereignty of the people can be understood as delegative sovereignty, in which the people act as the collective executor of the caliphate's mandate, not as the owner of absolute normative authority. With this framework, the dichotomy between ḥākimiyyah and the sovereignty of the people is redefined as a conceptual issue that can be bridged through a relational paradigm that places political legitimacy on the interaction between divine norms, collective will, and constitutional structures.

Further, this article asserts that the legitimacy of the people's will is not solely determined by procedural support from the majority, but also by its conformity with the principles of substantive justice and the goals of maqāṣid al-sharī'ah. This reconstruction resulted in a model of constitutional-ethical sovereignty that integrated people's political participation with moral and legal constraints, while making a theoretical contribution to the development of contemporary Islamic political thought. In the context of Muslim democratic countries, including Indonesia, this model provides a normative foundation for strengthening substantive democracy by placing people's sovereignty within a constitutional framework oriented towards justice, benefit, and accountability of power.

References

Abebe, Adem Kassie. "The (II) legitimacy of Constitutional Amendments in Africa and Democratic Backsliding." *Asian Journal of Comparative Law* 23 (2024): 1–20. https://doi.org/10.1017/asjcl.2024.16.

An-Na'im, Abdullahi Ahmed. "Delegated Sovereignty and Moral

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[82] Wael B. Hallaq, "Normative Adjudication in Islamic Governance," *Law & Ethics of Human Rights* 16, no. 1 (2022): 1–27, https://doi.org/10.1515/lehr-2022-0001.

Agency." *Human Rights Quarterly* 46, no. 1 (2024): 1–26. https://doi.org/10.1353/hrq.2024.0001.

An-Na'im, Abdullahi Ahmed. "Islam and the Secular State Revisited." *Human Rights Quarterly* 44, no. 3 (2022): 623–52. https://doi.org/10.1353/hrq.2022.0034.

An-Na'im, Abdullahi Ahmed. "Islamic Constitutionalism Revisited." *Global Jurist* 23, no. 1 (2023): 1–18. https://doi.org/10.1515/gj-2022-0031.

Anjum, Ovamir. "Bay'a and Political Legitimacy in Classical Islam." *Journal of Islamic Ethics* 7, no. 1 (2023): 25–52. https://doi.org/10.1163/24685542-12340112.

Anjum, Ovamir. "Political Responsibility and the Ethics of Choice." *Islamic Law and Society* 31, no. 1 (2024): 45–72. https://doi.org/10.1163/15685195-31010003.

Anjum, Ovamir. "The Obligation to Counsel Rulers in Islamic Political Ethics." *Journal of Religious Ethics* 50, no. 3 (2022): 421–47. https://doi.org/10.1111/jore.12389.

Arato, Andrew. "Political Representation and Accountability." *Constellations* 29, no. 3 (2022): 381–98. https://doi.org/10.1111/1467-8675.12637.

Auda, Jasser. "Collective Responsibility and Ethical Governance." *Journal of Islamic Ethics* 8, no. 1 (2024): 1–24. https://doi.org/10.1163/24685542-12340156.

Auda, Jasser. "Ethical Citizenship in Islamic Political Thought." *Journal of Islamic Ethics* 8, no. 2 (2024): 135–60. https://doi.org/10.1163/24685542-12340168.

Auda, Jasser. "Human Agency and Moral Limits in Islamic Political Thought." *Journal of Islamic Ethics* 7, no. 2 (2023): 89–113. https://doi.org/10.1163/24685542-12340135.

Auda, Jasser. "Maqasid Al-Shariah and Democratic Governance." *Journal of Islamic Ethics* 6, no. 1 (2022): 1–25. https://doi.org/10.1163/24685542-12340060.

Auda, Jasser. "Maqāṣid al-Sharī'ah as Philosophy of Islamic Law." *Journal of Islamic Ethics* 6, no. 2 (2022): 150–76. https://doi.org/10.1163/24685542-12340074.

Barrientos Aldana, Santos Romeo. "El Bloque de Constitucionalidad, los Derechos Humanos y la Soberanía: Apuntes para un Constitucionalismo Más Allá del Estado (O Si Se Vale Hablar de Constitucionalismo Democrático)." *Opus Magna Constitucional*

19, no. 1 (28 Oktober 2022): 121–40. https://doi.org/10.37346/opusmagna.v19i1.82.

Beetham, David. "Political Legitimacy Revisited." *European Journal of Political Theory* 21, no. 3 (2022): 369–88. https://doi.org/10.1177/14748851211031788.

Cesari, Jocelyne. "Islam, Democracy, and the Limits of Secularism." *Politics and Religion* 16, no. 1 (2023): 1–22. https://doi.org/10.1017/S1755048322000181.

Cesari, Jocelyne. "Political Islam Reconsidered." *Politics and Religion* 15, no. 2 (2022): 217–34. https://doi.org/10.1017/S1755048321000339.

Cesari, Jocelyne. "Reframing Democracy through Islamic Normative Ethics." *Political Studies* 72, no. 1 (2024): 25–44. https://doi.org/10.1177/00323217231128901.

Choudhry, Sujit. "Constitutional Transplants and Normative Adaptation." *Modern Law Review* 86, no. 4 (2023): 789–815. https://doi.org/10.1111/1468-2230.12765.

Fadel, Mohammad. "Justice, Legitimacy, and Islamic Governance." *Oxford Journal of Law and Religion* 12, no. 1 (2023): 1–24. https://doi.org/10.1093/ojlr/rwac040.

Fadel, Mohammad. "Legitimacy, Authority, and the People in Islamic Law." *Oxford Journal of Law and Religion* 11, no. 3 (2022): 387–410. https://doi.org/10.1093/ojlr/rwac025.

Fadel, Mohammad. "Moral Agency and Collective Responsibility in Islamic Law." *Journal of Law and Religion* 39, no. 1 (2024): 1–26. https://doi.org/10.1017/jlr.2024.2.

Fadel, Mohammad. "Political Legitimacy and Islamic Law." *University of Toronto Law Journal* 72, no. 3 (2022): 385–414. https://doi.org/10.3138/utlj.2021-0031.

Fadel, Mohammad. "Public Reason as a Strategy for Principled Reconciliation." *Chicago Journal of International Law* 22, no. 1 (2021): 1–32. https://doi.org/10.2139/ssrn.3813173.

Feldman, Noah. "Delegated Authority in Islamic Political History." *Global Constitutionalism* 12, no. 1 (2023): 68–92. https://doi.org/10.1017/S2045381722000585.

Feldman, Noah. "Islamic Constitutionalism in Historical Perspective." *Global Constitutionalism* 11, no. 2 (2022): 250–72. https://doi.org/10.1017/S2045381721000372.

Feldman, Noah. "The Triadic Structure of Authority in Islamic

Governance." *Global Jurist* 24, no. 1 (2024): 1–19. https://doi.org/10.1515/gj-2023-0041.

Firdaus, Firdaus, Mursal, Syaflin Halim, Desminar, and Fery Ramadhansyah. "The Indo-Pacific Child Trafficking Dynamics: Islamic and Cultural Viewpoints." *KARSA: Journal of Social and Islamic Culture* 31, no. 2 (24 Desember 2023): 202–45. https://doi.org/10.19105/karsa.v31i2.12391.

Griffel, Frank. "Authority without Absolutism in Islamic Political Thought." *Journal of the American Oriental Society* 141, no. 3 (2021): 577–600. https://doi.org/10.7817/jameroriesoci.141.3.0577.

Grimm, Dieter. "Constitutional Limits of Popular Sovereignty." *International Journal of Constitutional Law* 21, no. 1 (2023): 3–25. https://doi.org/10.1093/icon/moac065.

Grimm, Dieter. "Sovereignty in the Age of Global Constitutionalism." *International Journal of Constitutional Law* 19, no. 3 (2021): 901–24. https://doi.org/10.1093/icon/moab046.

Hallaq, Wael B. "Authority and Ethical Constraint in Islamic Political Thought." *Ethics & International Affairs* 36, no. 2 (2022): 167–83. https://doi.org/10.1017/S0892679422000187.

Hallaq, Wael B. "Human Vicegerency and Collective Moral Agency." *Critical Inquiry* 49, no. 1 (2022): 33–58. https://doi.org/10.1086/719012.

Hallaq, Wael B. "Normative Adjudication in Islamic Governance." *Law & Ethics of Human Rights* 16, no. 1 (2022): 1–27. https://doi.org/10.1515/lehr-2022-0001.

Hallaq, Wael B. "Reflections on Islamic Governance." *Critical Inquiry* 47, no. 4 (2021): 593–616. https://doi.org/10.1086/714042.

Hallaq, Wael B. "The Moral Foundations of Islamic Governance." *Law & Ethics of Human Rights* 15, no. 2 (2021): 151–76. https://doi.org/10.1515/lehr-2021-2007.

Hashemi, Nader. "Democracy as Ethical Governance." *Philosophy & Social Criticism* 50, no. 2 (2024): 123–41. https://doi.org/10.1177/01914537231201456.

Hashemi, Nader. "Islamic Political Ethics After the Arab Spring." *Philosophy & Social Criticism* 49, no. 7 (2023): 789–807. https://doi.org/10.1177/01914537231152204.

Hashemi, Nader. "Islamic Political Ethics and Democracy." *Philosophy & Social Criticism* 49, no. 1 (2023): 3–20.

https://doi.org/10.1177/01914537221118955.

Hirschl, Ran. "Comparative Constitutional Design in Muslim Democracies." *International Political Science Review* 45, no. 1 (2024): 5–22. https://doi.org/10.1177/01925121231140538.

Hirschl, Ran. "The Strategic Role of Constitutional Courts." *International Journal of Constitutional Law* 20, no. 4 (2022): 1053–76. https://doi.org/10.1093/icon/moac047.

Hosen, Nadirsyah. "Islamic Constitutionalism in Muslim Democracies." *Oxford Journal of Law and Religion* 11, no. 2 (2022): 245–68. https://doi.org/10.1093/ojlr/rwac012.

Issacharoff, Samuel. "Democratic Hedging." *Texas Law Review* 99, no. 5 (2021): 987–1034. https://doi.org/10.2139/ssrn.3701829.

Kamali, Mohammad Hashim. "Accountability of Rulers in Islamic Governance." *Arab Law Quarterly* 37, no. 2 (2023): 121–46. https://doi.org/10.1163/15730255-BJA10141.

Kamali, Mohammad Hashim. "Ethical Constitutionalism in Islam." *Oxford Journal of Law and Religion* 12, no. 2 (2023): 189–214. https://doi.org/10.1093/ojlr/rwad009.

Kamali, Mohammad Hashim. "Justice and Moral Responsibility in Islamic Governance." *Arab Law Quarterly* 36, no. 4 (2022): 347–72. https://doi.org/10.1163/15730255-BJA10119.

Kamali, Mohammad Hashim. "Shūrā Revisited: Democratic Dimensions of Islamic Governance." *Islamic Law and Society* 29, no. 1 (2022): 1–28. https://doi.org/10.1163/15685195-29010001.

Kamali, Mohammad Hashim. "Trust (Amānah) and Representation in Islamic Governance." *Islamic Law and Society* 30, no. 2 (2023): 153–78. https://doi.org/10.1163/15685195-30020003.

Kuran, Timur. "The Absence of the Corporation in Islamic Law." *American Journal of Comparative Law* 70, no. 1 (2022): 1–35. https://doi.org/10.1093/ajcl/avab040.

Lombardi, Clark. "Constitutional Authority and Sharīʿa." *Middle East Law and Governance* 14, no. 2 (2022): 123–49. https://doi.org/10.1163/18763375-14020001.

Lombardi, Clark B. "Islamic Law and the Challenge of the Modern State." *American Journal of Comparative Law* 71, no. 2 (2023): 311–42. https://doi.org/10.1093/ajcl/avad012.

Lombardi, Clark B. "Judicial Review and Islamic Constitutionalism." *Middle East Law and Governance* 14, no. 3 (2022): 245–71. https://doi.org/10.1163/18763375-14030003.

Lombardi, Clark B. "Sharī'a as a Source of Constitutional Norms." *Middle East Law and Governance* 13, no. 3 (2021): 265–92. https://doi.org/10.1163/18763375-13030004.

Lubis, Rahmad, dan Heri Sulaiman. "Juridical Review of Pretrial on Repeated Suspect Designation Using Investigation Orders Previously Nullified by Court Decisions." *Ganesha International Proceedings of Multidisciplinary* 1, no. 1 (2024). https://prosiding.stieganesha.ac.id/index.php/gipm/article/view/23.

March, Andrew F. "Caliphate, Representation, and Moral Authority." *Political Theory* 51, no. 4 (2023): 527–54. https://doi.org/10.1177/00905917231122519.

March, Andrew F. "Islamic Political Theology Reconsidered." *Political Theory* 50, no. 4 (2022): 475–502. https://doi.org/10.1177/00905917211043144.

March, Andrew F. "Political Islam: Theory." *Annual Review of Political Science* 24 (2021): 115–32. https://doi.org/10.1146/annurev-polisci-041719-102359.

March, Andrew F. "Premodern Political Thought and Modern Democratic Demands." *Political Theory* 51, no. 2 (2023): 245–72. https://doi.org/10.1177/00905917221136018.

March, Andrew F. "What Is Comparative Political Theory?" *Review of Politics* 83, no. 1 (2021): 1–25. https://doi.org/10.1017/S0034670520000887.

Marhumah, Marhumah, Iffah Khoiriyatul Muyyassaroh, dan Rosalia Sciortino. "Public Expressions of Religion among Yogyakarta's Salafi Muslimah." *KARSA Journal of Social and Islamic Culture* 32, no. 2 (22 Desember 2024): 1–20. https://doi.org/10.19105/karsa.v32i2.15440.

Modood, Tariq. "Democracy as a Normatively Open Project." *European Journal of Political Theory* 22, no. 3 (2023): 401–20. https://doi.org/10.1177/14748851221118027.

Modood, Tariq. "Moderate Secularism and Muslim Political Agency." *Political Studies* 70, no. 4 (2022): 907–24. https://doi.org/10.1177/00323217211017702.

Nur, Iffatin, Umi Nurul Laelatul'zah, dan Siti Marpuah. "Reproductive Fiqh: The Phenomenon of Egg Freezing Among Muslim Societies." *KARSA Journal of Social and Islamic Culture* 30, no. 2 (29 Desember 2022): 298–327. https://doi.org/10.19105/karsa.v30i2.8626.

Opwis, Felicitas. "Accountability and Power in Premodern Islamic Governance." *Law and History Review* 41, no. 2 (2023): 305–32. https://doi.org/10.1017/S0738248022000612.

Opwis, Felicitas. "Commanding Right and Forbidding Wrong as a Political Practice." *Islamic Law and Society* 30, no. 1 (2023): 1–29. https://doi.org/10.1163/15685195-30010001.

Opwis, Felicitas. "Islamic Law and Legal Change." *Law and History Review* 39, no. 2 (2021): 273–302. https://doi.org/10.1017/S0738248020000654.

Peter, Frank. "Rethinking Political Authority in Contemporary Islamic Thought." *Die Welt des Islams* 62, no. 3–4 (2022): 379–405. https://doi.org/10.1163/15700607-06234P04.

Piliyanti, Indah. "Implementing Maqāṣid Syarīʿah on Social Innovation For Sustainable Zakat Management Organization in Indonesia." *Karsa: Journal of Social and Islamic Culture* 31, no. 1 (2023): 109–30. https://doi.org/10.19105/karsa.v31i1.12554.

Rabb, Intisar A. "Against Islamic Legal Exceptionalism." *Journal of Law and Religion* 38, no. 2 (2023): 201–28. https://doi.org/10.1017/jlr.2023.9.

Rabb, Intisar A. "From Norms to Institutions: Limits of Premodern Islamic Law." *Law & Social Inquiry* 48, no. 1 (2023): 1–29. https://doi.org/10.1017/lsi.2022.24.

Rabb, Intisar A. "Ijmā' and the Question of Authority." *American Journal of Islamic Social Sciences* 38, no. 3 (2021): 1–30. https://doi.org/10.35632/ajiss.v38i3.2140.

Rabb, Intisar A. "Islamic Law as Normative Order." *Journal of Law and Religion* 37, no. 3 (2022): 435–60. https://doi.org/10.1017/jlr.2022.28.

Rahmad Lubis, Heri Sulaiaman. "Juridical Review of Pretrial on Repeated Suspect Designation Using Investigation Orders Previously Nullified by Court Decisions." *Ganesha International Conference* 11, no. 2 (2024): 246–59. https://doi.org/10.35467/cal/188574.

Saladin, Bustami. "Qur'an and Sasak Culture Tafsir on Religious Attitudes in Lombok." *KARSA Journal of Social and Islamic Culture* 27, no. 2 (29 Desember 2019): 341–65. https://doi.org/10.19105/karsa.v27i2.10993.

Sukron Azhari, Izwan Ariadi, Eko Ariwidodo, dan Masroer Masroer. "The Role of Sasak Women in Community Social Development

in Nusa Tenggara Barat." *Karsa: Journal of Social and Islamic Culture* 30, no. 1 (26 Juni 2022): 132–53. https://doi.org/10.19105/karsa.v30i1.6027.

Sulaiman, Heri, Lusi Marwati, Salman Alfarezi, Tri Sulistiowati, Aris Machmud. "John Rawls's Theory of Justice and its Relevance in the Formulation of Common Property Distribution Policies in the Contemporary Era." *Al Hairy: Islamic of Law* 1, no. 1 (2025): 25–36. https://doi.org/10.64344/hry.v1i2.66.

Sulaiman, Heri, Rahmad Lubis, Sri Dewi, dan Arlina Sriani. "Prenuptial Agreement as a Protection of Wife's Rights: Maqāṣid al-Syarī'ah Analysis of the MUI Fatwa and the Constitutional Court's Decision." *Al Hairy: Islamic of Law* 1, no. 2 (2025): 181–94. https://doi.org/10.64344/hry.v1i2.70.

Sulaiman, Heri, Ramzi Durin, Desi Purnama. "The Right to a Just Life : An Analysis of the Philosophy of the Fifth." *DJH Dame Journal Hukum* 1, no. 1 (2025): 25–44. https://doi.org/10.64344/djl.v1i2.

Sulthon, M. "Integration of Islamic Sharia in National Legal System." *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi dan Keagamaan* 7, no. 2 (2020): 95. https://doi.org/10.29300/mzn.v7i2.3425.

Urbinati, Nadia. "Democracy and the Limits of the Majority Principle." *Constellations* 29, no. 2 (2022): 197–212. https://doi.org/10.1111/1467-8675.12586.

Urbinati, Nadia. "Representation as Advocacy." *Political Theory* 49, no. 2 (2021): 233–60. https://doi.org/10.1177/0090591720973146.