

The Indonesian Update

Monthly Review on Economic, Legal, Security, Political, and Social Affairs



Main Report: Selecting Constitutional Judges, Guarding the Democratic Fiesta

Law

The Manipulation in Managing *Dana Abadi Umat* ▪

Politics

- Preventing Vote Buying in the 2014 Elections ▪
- Money Politics Will Still Happen in the 2014 Elections ▪
- The Polemics over the Establishment of the
PPL Partners of the 2014 Elections
- The Pragmatism of Political Parties Towards Elections ▪

Social

- Highlighting the Situation of Women in Refuge ▪
- Lost Luggage: A Portrait of Poor Flight ▪
- Consumer Protection Services

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FOREWORD

Ahead of the 2014 elections, there is one electoral institution that often escapes the attention of the public. The agency is the Constitutional Court (MK). The institution will be the judge of any election disputes. The problem is that this time there are two vacant constitutional judge positions. According to Article 4, Paragraph 1 of Law no. 24/2003 on the Constitutional Court, the Constitutional Court judges should consist of nine people. The shortage in the number of constitutional judges will hinder the performance of the Court, let alone the general elections.

Therefore, the election of constitutional judges by the Parliament is particularly important for MK to run trials that will decide disputed election results in 2014. Indeed, the task of the Parliament is not just choosing the constitutional judges, but also choosing statesmen who will guard the constitution and preserve democracy.

The March 2014's edition of the Indonesian Update raises a main theme on "Selecting Constitutional Judges, Guarding the Democratic Fiesta". On law, The Manipulation in Managing Dana Abadi Umat. On politics, it talks about "Preventing vote buying in the 2014 elections". On social affairs, it reviews, "Highlighting the Situation of Women in Refuge".

In addition, in this edition of the Indonesian Update, on politics, it also discusses "Money Politics Persists in the 2014 election", "Polemics over the Establishment of PPL Partners in the 2014 Elections", "Pragmatism Political Parties ahead of Elections". On social affairs, it touches on "Lost Luggage: the Bad Image on Aviation Services Consumer Protection".

The regular publication of the Indonesian Update with its actual themes is expected to help policy makers in government and business environment -- as well as academics, think tanks, and other elements of civil society, both within and outside the country, to get the actual information and contextual analysis of economic, legal, political, cultural and social developments in Indonesia, as well as to understand the public policy in Indonesia.

Happy Reading.

Selecting Constitutional Judges, Guarding the Democracatic Fiesta

Legislative Elections, which will be held in April 2014, are getting closer. The political parties efforts to disseminate information to the public are also increasingly intensive. The General Election Commission has started to consolidate all staff members to the success of this celebration.

Activists, academics, and journalists who focus on issues of elections have begun to educate and promote through various facilities. Nevertheless, there are some communities that have voiced a movement not to vote at the the voting day.

At a first glance, all stakeholders are ready to help achieve the success of the elections in 2014. However, there is one electoral institution that often escapes the attention of the public. The agency is the Constitutional Court (MK), the institution that is tasked with solving any potential disputes arising after the election voting.

In accordance with the mandate of Article 24C Paragraph (1) of the 1945 Constitution, the MK has the authority to decide on disputed election results. Therefore, the position of the Court is very important in the elections as it has become a referee if there are disputed election results.

Selecting the Statesmen

Facing the possibility of disputed election results, then the MK has to be prepared from now, especially in dealing with human resources and the employment support system for constitutional judges. Currently, in MK's own body there is a lack of constitutional judges, and in early March 2014 there are some constitutional judges who will retire.

The position of the Head of the constitutional judges is still vacant due to the present DPR RI has not chosen a replacement for Akil Mochtar, who was involved in corruption cases. The selection of constitutional judges to be implemented by DPR RI is particularly important for the MK, which will face trials that will solve the disputes and the results of the legislative elections in 2014.

Currently, the process in DPR RI has been rolling. The Commission III on legal, human rights, and security affairs is responsible for selecting and choosing judges as substitute judge: Akil Mochtar and Harjono (retired March 6, 2014). Indeed, the task of DPR RI is not just choosing constitutional judges, but also choosing statesmen who will guard the constitution and preserve democracy.

Article 15 Paragraph (1) of Law Number 8 Year 2011 regulates the requirements for statesmen and the mastering of constitutional law affairs for constitutional judges. The Former Chief of MK, Jimly Asshiddiqie, revealed that one definition of a statesman is one who understands the law of the state, is free of political interests, and has no worldly interests (Kompas, February 19, 2014).

In addition, a statesman can also be interpreted as a person who dedicates his or her life to the state. For a statesman, a constitutional judge position is not a stepping stone to achieve other political positions. A constitutional judge position would mean devotion to the country without any political tendency to become a ruler.

Besides that, this position is not intended to accumulate material wealth. Therefore, a statesman who becomes a constitutional judge will never sell a decision for the sake of wealth and other worldly tendencies. He or she would not pawn the constitution and statesmanship for wealth.

A constitutional position in the lead-up to the general elections becomes more important, because all the disputed election results will be decided by the MK. Therefore, the selection of constitutional judges before the elections is likely to be political. Constitutional judges to be elected by the House of Representatives are to strengthen the MK in solving the disputed elections.

The Parliament needs to be careful and meticulous in selecting candidates of constitutional judges. The statesmanship criteria that should be used as references are track records and contributions to the constitutional law. Constitutional judges should not just have a

doctorate in law. They should have real contributions acknowledged in Indonesia.

Guarding the Democracy

In the 2009 elections, there were 627 legislative election disputes submitted to the MK. A total of 68 cases were granted, 398 cases rejected, 107 cases not accepted, and 27 cases withdrawn. The figures showed that the potential inclusion of the results of the election disputes to MK is very large.

The MK plays a huge role in guarding the elections. The elections success is also highly dependent on the process of dispute resolution in the MK. The potential emergence of disputed election results that is pretty much makes MK must be prepared to deal with them. The constitutional judges and all the systems that support the proceedings in MK should be ready.

In a fairly short time, a number of disputed election results will be submitted to the MK, presenting a challenge to the guardian of the constitution. The success of MK in handling the disputed election results would mean a success for the MK in guarding the course of the democratic fiesta, as Indonesia's democracy is growing and developing.

The selection of constitutional judges to be carried out by DPR RI has a correlation with the performance of the MK, which will be part of the election process in 2014. The quality of judges selected by DPR RI has a correlation with the quality of decisions re the disputed cases considered at the MK.

The two constitutional judges chosen by DPR RI have a strategic role because they will strengthen the MK before the 2014 elections. The success of DPR RI in choosing qualified constitutional judges would mean that they would also affect the success of the MK in handling the the disputed election results.

The DPR RI is supposed to get rid of the political aspect in choosing a constitutional judge. Clearly the people's representatives have to think ahead of the future of democracy in Indonesia. It is very difficult to avoid the political aspect, because DPR RI is a political institution.

Nonetheless, the representatives in the DPR RI's Commission III are figures who are supposed to know and understand that the

sustainability of democracy in Indonesia also depends on their political decisions. One of them is the process of selecting judges of the constitution. Therefore, the wise members of DPR RI are logically to choose constitutional judges candidates who have statesman characters.

-Asrul Ibrahim Nur-

Indeed, the task of DPR RI is not just choosing the constitutional judges, but also choosing statesmen who will guard the constitution and preserve democracy.

The Manipulation in Managing *Dana Abadi Umat*

Indonesia has the largest number of hajj pilgrims in the world. According to the data from the Religious Affairs Ministry, a total of hajj pilgrims in 2013 reached a level of 168,800 people, consisting of regular hajj of 155,200 pilgrims and the special hajj of 13,600 pilgrims.

With this huge amount, it can be said that Indonesian people's interest for hajj is enormous. In fact, the cost required for hajj is not cheap.

According to the Presidential Decree (Perpres) No. 31/2013 on Hajj about Pilgrimage Travel Payment (BPIH) Year 1434 H/ 2013 M, the average cost of hajj is USD 3,527, or Rp. 35,27,000,- assuming the exchange rate is Rp.10,000,- per USD.

Then, prospective pilgrims must deposit BPIH to the account of Minister of Religious Affairs through Beneficiary's Bank Deposit (BPS) BPIH (Article 5 of Perpres No.31/2013). It is set out in the provisions of Law No. 13/ 2008, which states that the Religious Affairs Ministry is the organizer as well as the coordinator of hajj in Indonesia (Article 8 and Article 38).

The Indication of Hajj Corruption in the Religious Affairs Ministry

Lord Acton, a British historian, once said that "*power tends to corrupt, absolute power corrupts absolutely*", which means that power has the tendency to corruption, whereas unlimited power will bring unlimited corruption too.

Then, by looking at the authority granted by the Indonesian government to Religious Affairs Ministry, it can be said that Indonesia has 'fully' entrusted all the hajj processes to that institution.

Thus, the author argues that there is an abuse of authority in the hajj process managed by Religious Affairs Ministry. This is related to media coverage about there indication of hajj corruption in the Religious Affairs Ministry.

For example, the case of misappropriation of hajj funds amounting to USD 5000 and USD 2500 (Indonesian Corruption Watch/ ICW, 2008); the excess funds of the 2009 Hajj amounting to Rp.12 trillion that has not been returned to the pilgrims (ICW, 2010); corruption in the procurement of goods and services, such as hajj dormitory, catering, transport, amounting to Rp.100 billion in 2012-2013 Hajj (Corruption Eradication Commission/ KPK, 2014), etc.

Corruption in Managing *Dana Abadi Umat*

According to Law No. 13/2008, *Dana Abadi Umat* or DAU, is the trust fund obtained from the utilization of *dana abadi umat* and/or a left-over of hajj charges and other sources that are non-binding (Article 1)

In sum, DAU is the proceeds of efficiency of BPIH fund. Only the interests of this fund that can be used, whereas the primary fund should not be used. Its use includes hajj services, education and religious outreach (*dakwah*), health, socio-religious, economy, and infrastructure development for religious activities (Article 47 Paragraph 3).

This trust fund is managed by *Dana Abadi Umat* Monitoring Agency (BPDAU) chaired by Minister of Religious Affairs. Yet, in the process, there is no accountability and transparency on its management.

According to *republika online* (6/5/11), former Vice Chairman of KPK, Bibit Samad Rianto said that the reporting and recording mechanism of DAU are unaccountable and had not yet met the standards of public accounting.

For example, the Supreme Audit Agency (BPK) said that the DAU's 2007 and 2008 financial reports stated 'disclaimer' (detikfinance, 04/21/09), whereas, the 2009 and 2010 financial reports stated 'qualified' (BPK, 2012).

'Disclaimer' means that the auditor does not express his/her opinion in the financial report, as a number of items of the financial report are considered problematic. Another problem is that the financial

report is arranged by institutions that are not trusted.

Second, a 'qualified' opinion is given when the auditor assesses that there is no impropriety in particular items, but this impropriety has no impact on the overall financial report.

Furthermore, according to BPK, the disclaimer opinion is caused by an internal control weakness, problems in BPIH initial deposit, as well as recording and reporting problems of BPIH efficiency in DAU Financial Report.

As for corruption case, KPK is now investigating a case about hajj corruption in Religious Affairs Ministry. KPK said that the DAU trust fund can create corruption, because this fund belongs to the government-

The case that has been investigated by KPK is hajj fund management in 2012-2013, which was managed by the Ministry of Religious Affairs, include management of trust fund DAU. The investigation was conducted because KPK suspects that there are irregularities in the management of this fund. Zulkarnain, the KPK vice chairman said that if this corruption case was proven, the Government should pay back the community (Kompas, 10/02/14).

Recommendations

The large amount of DAU trust fund is not managed transparently and not accountable. So, the trust fund will be diverted easily by the party that has the 'full authority' of managing the hajj process – which is Ministry of Religious Affairs.

Regarding this matter, the KPK recommends that the hajj applicants need need not to deposit money (Kompas, 02/10/14). However, it will be difficult because the hajj process will require huge costs, and it would be difficult if there is no 'bailout' first.

The solutions are *first*, 'reforming the bureaucracy' of Religious Affairs Ministry that has the dominant authority for BPIH management, including DAU. *Second*, change the trust fund's management.

Simply put , a bureaucratic reform is an attempt to reform fundamental changes to the system of governance, especially concerning institutional aspects (organization) , management , and human resource personnel (LIPI , 2012).

In fact, as mentioned above there is already a DAU 'watchdog agency' (BPDAU) - that has been working since October last year. Thus, what needs to do is to ensure that this institution is 'sterile' or away from the interference of Ministry of Religious Affairs. This can be done when BPDAU is no longer under the coordination of the Minister of Religion Affairs.

Lastly, those institutions should make improvements to financial report DAU's. In this case, th DAU should not only be reported to the House of Representatives (DPR) and audited by BPK, but also provide publicly accessible information. It is for dispel speculation that the management of this fund is not accountable and transparent.

-Santi Rosita Devi-

The cases of misappropriation of the DAU at the Ministry of Religious Affairs have occurred due to a lack of transparency and accountability of the management. So, the solutions are monitoring the performance of BPDAU as the 'watchdog agency' of DAU, as well as providing accessible information.

Preventing Vote Buying in the 2014 Elections

Joseph Schumpeter said that the essence of democracy was to elect a leader through a competitive contestation mechanism to get the popular vote (Ubaidillah, dkk, 2000). The contestation that we are familiar with is the general election.

Historically, Indonesia has had a long experience in organizing elections. This experience is an important asset to the success of the 2014 elections.

But that should be observed, such as the implementation of the previous election, fraudulent practices will still lurk in the implementation of the 2014 election, and one of them is buying and selling votes.

The Vote Buying Phenomenon in the Elections

According to study of the Indonesian Institute (2014) on the forms of election frauds, the vote buying phenomenon is a practice that is carried out systematically in order to manipulate the election results.

The practice of vote-buying is likely to occur at every level; namely, in KPPS, PPK, Regency and Provincial KPU. However, it is most likely to transpire at the district level. This is because the distribution of results at TPS level, which is in the form of manual data, will then be converted into electronic data by the Voters Committee (PPK).

At this stage, vote-buying tends to be used by parties or candidates who intend to manipulate the data. The main actors are the candidates with the District Election Committee (PPK), and the Voting Committee (PPS) and Voting Organizers (KPPS).

The practice of vote-buying is the negative implication of an open system with a proportional system based on the majority vote. Competition between political parties and candidates even within political parties has become more fierce. These conditions have eventually led to an unfair competition between candidates and parties contesting in the elections.

The National Elections Commission Policy

The National Elections Commission has taken some actions to anticipate the vote-buying practice. Some steps have been taken by the Commission. One of them is the use of the CI scan application form.

The CI scan form will be used in two stages. In the first phase, the CI form will be sent from the TPS to the district/city, and after that it will be scanned and sent to the KPU's server.

In the second phase, the vote tallies at the levels of the PPS and PPK will be put on the Commission website so that the people will immediately know the recapitulation at the PPS and PPK levels throughout Indonesia (Tribunnews.com, 14/2).

By scanning the CI application form, it is possible to monitor the voting results. The CI Form itself is a form used by an officer at each polling station as a medium for the number of ballots delivered to the polling station.

The CI form also recorded the number of voters according to the final registered voters list (DPT), the number of actual voters, the voters who do not use their right to vote, and the valid and invalid ballots (okezone.com, 14/2).

The Commission's policy to use a CI scan application form is a step forward to reduce the chances of buying and selling votes. This is because the application of the data can be directly recorded.

Second, the data of the election results. Third, the election result data transparency. Fourth, a controlled tool work of election organizers and participants of the elections.

The Demand for Professional and Independent Election Organizers

The use of CI scan application form is one step forward. But, one thing to bear in mind is that any sophisticated technology used to prevent electoral fraud will not run well if it is not followed by the professionalism and independence of the election organizers.

This is important because it is the election organizer body that will determine the outcome of the elections. Therefore, the agency should work in a professional and independent manner.

Election organizers should not be subjected to the intervention of any parties and in whatever forms. Election organizers should work independently

These institutions must be able to carry out activities that are free from interference, because the manipulation, will have implications on the credibility of the election management body and also the whole process and the outcome of the elections.

Increasing professionalism and independence of the election organizers will have an impact on *first*, creating a fair contestation among the contestants.

Second, increasing political legitimacy as elected leaders will reflect the configuration of political forces and interests of constituent voters (the people). Therefore, the candidates who are democratically elected will have the support of the majority of voters.

Third, increasing public participation, in determining the leaders (people's representatives) to reflect the actual embodiment of people sovereignty.

The use of CI scan application form is one step forward. But, one thing to bear in mind is that any sophisticated technology used to prevent electoral fraud will not run well if it is not followed by the professionalism and independence of the election organizers.

- Arfianto Purbolaksono -

Money Politics Will Still Happen in the 2014 Elections

'Money politics', or vote buying, is estimated to happen again in the 2014 legislative elections. This prediction refers to the number of cases of money politics in the elections of regional chiefs (Pilkada).

According to the data from the Election Supervisory Body (Bawaslu), in 2011 there were 367 cases of money politics. It is important to know that a lot of money politics took place during the elections of village chiefs (Pilkades) too.

Money politics has a devastating effect on the elections as the important part of the democratic process. The practice of money politics has made candidates focus on distributing money to voters rather than offering a vision, mission and programs if they are elected as members of the House of Representatives.

The practices of money politics has made the cost to to run for office become very expensive. It is because the candidates do not only spend money for campaign expenses but also have to 'buy' the votes from the voters.

Money politics will also cause the voters not to think critically and selectively towards candidates who are proper to represent their voices in the parliament. Money politics can make the voters choose based on the amount of money or material that they get.

In other words, money politics will pollute democratic principles. It means the candidates have not been chosen because they are appropriate to represent the people and represent the people's voice but because they have been elected by the exchange of money or goods with votes.

Money Politics Practices

The practices of money politics are also common in the Pilkada arena. Megawati, the Chair of the Indonesian Democratic Party of Struggle (PDI-P), stated that competitor of PDIP regional head candidate in Pilkada Bali 2013 was involved in money politics practices by distributing money in the amount of Rp 300 thousand to Rp 100 ribu to each voter. Consequently, she was not surprised that the regional head candidate from PDIP was lost (Tempo.co, May 23, 2013).

The money politics modus operandi that is usually used is the persuasion to choose a particular candidate in the exchange of cash between Rp 20 thousand and Rp 50 thousand. In addition, there are also money politics modus operandi by providing goods such as gifts, clothing, and basic foodstuffs e.g cooking oil, sugar and instant noodles (Tvonenews.tv, 20/12/2011).

Political actors who do money politics practices are usually members of a success team (tim sukses) of regional head candidate, community leaders such as village chiefs, chief of neighborhood units (RT) and community units (RW), village officers, and the Voting Committee (PPS).

One of the most commonly used form is the “serangan fajar” (“the dawn raid”). The practice is done by distributing money to voters in the early morning or before dawn on the voting day.

However, the new form of money politics found in some of the recent Pilkadas is a small tear of the ballot paper used as evidence to be presented to those who had promised to give the money.

As expressed by the writer, money politics will not only happen in the elections at the national and local levels, but will also occur at the pilkades/village level. Pilkades as a manifestation of the democratic process at the local level and very close to the community was apparently so rife with money politics.

It has happened in the Pilkades in several villages in Malang since years ago. Each candidate (cakades) would try to beat his or her competitors by giving money to the prospective voters. The amount was between Rp 50 thousand and Rp 150 thousand. It is not surprisingly, the more cakades who fought the more money earned by the voter. Each voter could receive hundred thousands rupiahs from many candidates toward the voting day (Sinar Harapan,

04/10/2013).

Furthermore, money politics also still happens in the elections in a number of Southeast Asian countries. It can be found in the Philippines, Malaysia, Thailand, and Indonesia. As stated by Edward Aspinal, an academic from the Australian National University (ANU), the practice is quite similar in Indonesia and Thailand, where the provision of money is made on the early morning of election day, or known as “serangan fajar” (ugm.ac.id, 09/26/2013).

Money Politics from the of law enforcement view

Money politics in the legislation on election is included in the category of violation and may be subject to sanctions. Article 89 of Law 8/2012 on Legislative Elections states that if someone who conducts campaign gives money or other goods to exchange for the vote for a particular political party or candidate for the House of Representatives (DPR), the Provincial Legislative Council (DPRD), the District Legislative Council (DPRD kota/kabupaten), and the Regional Representatives Council (DPD), he or she will be subjected to sanctions as provided by law.

However, the law is not fully enforced and the legal system in Indonesia is also not able to ensnare a person who practices money politics. The weakness of this legislation is that the perpetrators of money politics are limited to the participants of elections and members of the campaign teams. Yet in practice, the perpetrators of money politics are the messengers of the campaign teams, or even brokers that connect candidates with voters.

In terms of proving money politics before the law is not easy. This is caused by the difficulty of finding evidence of political money transactions. It is important to know that there are no receipts in money politics. There are only verbal transactions and the handover of goods or money.

The Chief of Constitutional Court Hamdan Zoelva has stated that the Constitutional Court (MK) will not invalidate the election results although there is evidence that money politics has occurred. Only structured, systematic and massive money politics could invalidate the results of elections.

The reason is that the inavailability of funds in the case of a repeated election. Hamdan admitted that many election disputes in the MK actually proved that money politics has occurred. However, if

all of the elections are repeated, then there is no money to do it (Mahkamahkonstitusi.go.id, 10/02).

The Causes of Persistent Money Politics

There are several reasons why the practices of money politics still occur and are difficult to eradicate. The community as the recipient of money politics has a common thing in every election. They will receive money to choose one particular candidate or party.

In addition, most of the people with low-income will accept the money because they need it to increase their revenues. That practice is more common in low-income communities than in middle and upper class societies.

For candidates who will run in elections, money politics is a method to maintain the loyalty of their constituencies in order to keep voting for him and to not switch to another candidate. In addition, money politics is used to get other voters who are not constituents to vote for him in the election.

From the law enforcement point of view, related institutions, such as Bawaslu, are not really serious to eradicate money politics. In addition, the practices of money politics are not easily revealed and proposed in the proceedings because of the difficulty to prove these violations.

That situation makes money politics in an election is difficult to eradicate and most likely will continue in the next elections. It will pollute and destroy democracy in this country.

The candidate chosen by the voters should be the candidate who has the capacity and capability as a representation of the people's voice. However, the presence of money politics makes the candidbased on the amount of money given to voters.

Recommendations

Bawaslu with the support of the police should be more strict in its supervision. Each report about money politics practices should be investigated thoroughly, so one of the important democratic processes will not be distorted by money politics.

The independent election observers and civil society also participate in the monitoring and in delivering political education to the public to refuse money politics. Furthermore, the community

has an important role and participation in monitoring money politics practices and report them to the authorities. Supervision and prosecution of the cases will suppress the practices of money politics.

-Annas Syaroni-

The practices of money politics in the 2014 elections will occur due to the mutual transactions between candidates and the majority of the voters.

The Polemics over the Establishment of the PPL Partners of the 2014 Elections

A general election is an instrument of democracy to establish a system of state power based on people's sovereignty. Power, born through a general election, is a power that is born from the people, according to the will of the people and used in accordance with the wishes of the people.

Elections are held directly, freely, confidentially and fair. This can only be achieved if they are carried out by the organizers of the elections that have integrity, professionalism, and accountability. But, if we learn from the previous elections, each stage in the administration of elections could not be separated from the reports of fraud.

Overseeing the Implementation of the 2014 Elections

The 2014 elections must be monitored closely to ensure that they will free and fair. Safeguarding the implementation of the elections can be conducted by monitoring the stages of the elections. The supervision of elections in Indonesia is carried out by an institution called the Election Supervisory Board (Bawaslu).

Bawaslu has two tasks: *first*, to prevent violations of elections. *Second*, to take action against election violations. In general, in its task of monitoring the elections, the Bawaslu puts an emphasis on prevention based on a variety of potential violations of the election (bawaslu.go.id, 25/2).

However, in order to carry out its duties, Bawaslu cannot work alone. Bawaslu requires public participation in election monitoring. Public participation in election monitoring is done by monitoring the elections. In principle, supervision and monitoring are the part of the safeguarding of the elections.

According to Topo Santoso, observers and supervisors carry out

the same mission of ensuring the implementation of free and fair elections. But the difference is limited to the work of election observers to monitor the implementation. While the election supervisors have the duty and authority more broadly, ie to resolve violations of elections and electoral disputes (Veri Junaidi, 2013).

Responding to the Polemics over the Establishment of PPL Partners

The high level of vulnerability to election fraud in 2014 has not been followed by the strengthening of institutional Bawaslu. Currently Bawaslu' total personnel is still very limited. The number of election field supervisors (PPL) in each village/urban village is three people. If you look at the number of polling stations (545 791), you will see that the number is not proportional to the number of PPL personnel (224,000) (republika.co.id, 25/2).

In order to carry out its duties, Bawaslu cannot work alone. Bawaslu requires public participation in election monitoring.

In relation to the polemics over the establishment of PPL Partners, the author argues that it is proper, if it is rejected by the Kemendagri. This is because *first*, the absence of legal umbrella for the establishment of the PPL Partners has made the PPL partners has no strong legitimacy for supervision at the polling stations. *Second*, the magnitude of the budget can potentially divert PPL partners if there is no clarity in reporting and oversight mechanisms.

Third, the time to the polling day is too short, making the preparations for the PPL are felt very instant. The PPL's preparations, recruitment, technical guidance and the logistic distribution will take some time.

Fourth, to answer the issue of shortage of PPL personnel. In accordance with Law No. 15 on Elections, Article 72 states that the number of PPL can be adjusted up to a maximum of five people per village/urban village, taking into account the geographical conditions and the distribution of polling stations. So, Bawaslu should be able to use the article to maximize the number of PPL members.

Fifth, Bawaslu should be able to optimize the cooperation with civil society groups, academia and the media to monitor elections. *Sixth*, Bawaslu should actively provide capacity building training for monitoring volunteers supplied by civil society groups, academia, and the media.

- Arfianto Purbolaksono-

The Pragmatism of Political Parties Towards Elections

Towards the elections, many political parties are busy recruiting businesspeople and celebrities to become administrators or candidates /calon legislatif (caleg). Many political parties have brought in funds for the campaigns and increased the chances of gaining more votes in the elections.

Political parties should implement regeneration. The cadres who have been educated well should become candidates from the political parties to run in the elections. The process is intended to allow qualified candidates from political parties to prove their abilities. If they are elected, they will act in accordance with the vision and mission of the parties.

Likewise, political parties' funding should come from the parties' members' donations. Thus, parties will act in accordance with the aspirations of their members.

However, many political parties today choose shortcuts rather than implementing this mechanism. There are two ways to shortcut this mechanism. First, political parties choose to accept and put up some celebrities rather than optimizing their cadres to fill out these positions. Second, the parties also choose to accept businesspeople to take charge of the political parties and to provide funds to political parties rather than collecting dues from their members.

Businesspeople

PKB is a political party that managed to get a wealthy businessman to take charge of the party. In January 2014, Lion Air owner Rusdi Kirana joined PKB and became its Vice Chairman. As we all know, Rusdi Kirana is the 29th richest businessman in Indonesia in 2013 according to Forbes magazine, with a net worth of US\$ 1 billion.

Previously, Hary Tanoë also did the same thing. Hary Tanoë is the

owner of MNC Group who has joined Hanura Party and become a vice president candidate from this party. He is the 22nd richest businessman in Indonesia in 2013 according to Forbes magazine with a net worth of US\$ 1.35 billion. Recently, he announced that he donated funds for some potential Hanura Party's candidates (Tempo.co, 03/01/2013).

In the past years, some businessmen have already entered into politics. One of them is Aburizal Bakrie, the owner of Viva Media Group and also Chair of Golkar Party. Aburizal Bakrie began his career at Golkar and after becoming a chairman, he is preparing for a presidential candidate with support from Golkar Party.

According to the author, the relationship between political parties and businesspeople is a mutualistic relationship. Political parties are available for businesspeople. Political parties require businesspeople to become donors, especially for the purpose of the election campaign, in addition to finance political parties' operations. This is the reality of today's democracy. The campaigns do require a very large funds. This is caused by several things, including the number of people and a large area of Indonesia.

It is the current trend that businessmen turn into someone who takes charge in party, a candidate or party chairman. As we know, members of political parties who have large funds can be dominant persons in the organization of political parties, including affecting the party policies.

These conditions happened at several parties, including Golkar Party. As DPP Golkar Party chairman Bambang Soesatyo admits, the party leadership became the largest contributor to the party's treasury. Approximately 40 percent of operating costs comes from the party chairman (Reuters, 31/03/2010). It is not surprising, as a big party, Golkar always selects a chairman with businessman background in the last decade.

Artists

In the last year, it has been announced that 51 celebrities have become legislative candidates of the House of Representatives (Dewan perwakilan Rakyat/DPR) from nine parties that will be contesting the 2014 elections. Some of these celebrities are incumbents who return to fight to get a seat in DPR, such as Nurul Arifin, Eko 'Patrio', Primus Yustisio, Vena Melinda, Rieke Diah Pitaloka, Tantowi Yahya, Jamal Mirdad, Rachel Maryam, and Ingrid

Kansil.

There are some old and young celebrities who will run in elections for the first time. They are Jeremy Thomas, Anang Hermansyah, Bella Saphira, Jane Shalimar and Angel Lelga. And then some old celebrities such as Ilang Fawzi, Sarwana, Anwar Fuady, Mat Solar, and Emilia Contesa.

According to the author, when observing these celebrities, most of them have similarity, their popularity has not been at the top. Thus, these celebrities take advantage of their positions in order to get votes in the election.

These celebrities are expected by the parties as vote getters, because they still have the popularity, although they are not as high as they are at the peak of his/her career, but at least they are still known to the public. Their popularity will attract voters to vote them. As a result, parties will gain benefit by getting seats in the DPR and the total vote nationally. Whereas parties get the seats, the selected celebrities will occupy the seats.

As a reflection, a lot of celebrities who are members of DPR look less competent than members who have been in politics or as activists for a long period. Nevertheless, there are celebrities who qualify enough.

The Deputy Speaker of DPR Pramono Anung, who admitted that of 18 celebrities who became members of the DPR during 2009-2014, not all of them can adjust to the tasks in the DPR and speak out public voice. (Suarapembaharuan.com, 03/05/2013).

Actually, political parties receiving the celebrities realized that the majority of these celebrities only have their popularity without the ability to understand the issues in the community as well as knowledge of the legislation. However, as political parties need to boost the vote, they still use these celebrities. Political parties think that celebrities will be selected by the community and get seats.

Political Pragmatism

A political party has two main objectives: the first is survival, the second is success. Both of these are relative to each party (Müller and Strom, 1999). Although survival and the success rate are different for each party, but there are purposes of the founding and

existence of political parties.

To actualize this, the parties in Indonesia are not well organized. In this context, they need the cadre and good financial management. Parties prefer shortcuts to recruit popular personal and wealthy businessmen.

It is the reality and consequences of the democratic system where parties need to garner a lot of votes that will be converted to seats in the parlement. Of course it is for existence of the parties. To get votes, It is not enough to provide only party's programs and good candidates. But, it also needs substantial funds for the campaign and popular candidates and have a high electability.

Recommendations

Political parties should implement the regeneration function and membership dues. In other words, political parties carry out their functions and organize themselves. Consequently, parties not only have yactivities only before an election. The output is that the parties will have a qualified cadre and independent financing.

- Annas Syaroni –

***Political parties
tend to be pragmatic
towards the elections
as they are not
committed to their
functions and they
organize themselves
properly.***

Highlighting the Situation of Women in Refuge

The National Disaster Management Agency (BNPB) presented the preliminary disaster data of the period of January 1, 2014 to February 16, 2014, which included 282 recorded disaster events. The impacts were 197 people were killed, 64 were injured, 1.6 million were displaced, and tens of thousands of homes were damaged.

The economic impact was also massive. For example, the initial estimation of the losses and damages caused by the flood disaster in Sulawesi was Rp 1.87 trillion, the eruption of Mount Sinabung was Rp 1 trillion, the Pantura flooding was Rp 6 trillion, and the flooding in Jakarta was Rp 5 trillion.

As for the Kelud eruption, the direct impact of the eruption of Mount Kelud on Malang district was a total loss of Rp 392.66 billion. It is estimated that the total loss may change later. The casualties in Malang were seven people died, 31 people were hospitalized and 1,392 people were treated.

The damaged buildings included 3,782 units of houses, 20 units of government buildings, 251 units of educational facilities, nine units of health facilities, 36 units of houses of worship, and 8095 m³ of water supply. The areas that were severely affected by the eruption in Malang Regency were Ngantang and Kasembon.

The damaged agricultural land included 5,146 ha of farmland, 1,792 ha of plantations, and 260 060 of fruit plants. Meanwhile, there were 25290 affected cows.

In addition to these losses, in every disaster there are usually many refugees. The data show that the number of people displaced by disasters was not little. For example, the data as of February 17 2014, five months after the eruption of Mount Sinabung in North Sumatra, the Regional Disaster Management Agency (BPBD) recorded that the number of displaced people was 29 140 households consisting of 13,389 men, 13,706 women, 2,220 elderly people, 235

pregnant women and 1,365 infants.

The data above show that the number of vulnerable groups, such as women, the elderly, pregnant women and infants, was dominant. But the allocation of aid was not gender sensitive. Gender sensitive is not only in relation to refugees and women but also to other marginalized groups, such as the elderly and children.

Disasters are Not Gender Neutral

One thing to bear in mind is that disasters are not gender neutral. This means that women bear a disproportionate burden due to disasters.

Why a gender perspective? Some of the underlying reasons for this are closely related to the analysis of the relationships among the following vulnerabilities (social class and gender). Regarding vulnerability analysis, the first things to be understood are the definition and the susceptibility patterns themselves.

BNPB (2011) describes the definition of vulnerability as a condition that is determined by various factors and physical, social, economic, and environmental factors that lead to the increased vulnerability in the face of danger.

Women are more susceptible than men in facing the impacts of disasters. Women's lives, as well as men's, are characterized by gender relations in the contexts of a particular culture, age, physical capacity, ethnicity, race, economic conditions, status, and many other things.

Women tend to be more vulnerable, because gender inequality exists everywhere. *First*, women tend to have less power in decision-making at the family level and the community level (social vulnerability). When their voices are not heard, their needs in the medium or long term will also be unnoticed (Fatimah, 2008).

Discrimination Against Women in Evacuation

As regards with the conditions of women in refugee camps, the unequal relations in decision making are also seen. At the time of displacement, women's 'duties are to run public kitchen, take care of children, to find food and to distribute food to other refugees. The women in refugee shelters are often not involved in regulating assistance, so the special needs of women are usually not accommodated. For example, if they are on their periods, they need

specific goods and medications, such as menstrual pads. These goods are often not included in the list of the requested relief aids.

Another important thing to the provision of basic services such as water supply and public toilets while in displacement. Makeshift toilets are less safe and comfortable for female refugees. For example, the doors could not be locked or the toilets are not sufficiently covered (National Commission for Women, 2007).

In addition, many women get unfair treatment or discrimination in activities or meetings. This is because there are many members of the public who think that women are not worthy of participating. This discrimination has resulted in limited access and women control.

Conclusions and Recommendations

The description above shows that in addition to the rare strategic decision-making positions, women in refugee camps are also often excluded from policy-making and assistance management by refugees or in informal meetings. This is because women's voices are considered to have been under-represented. The inclusion of women is not considered important. As a result, a number of decisions has neglected the special needs of women.

Seeing the problems of women in the refugee camps, there are several things that can be acted upon by the stakeholders. Hopefully, there is no longer discrimination against women in refugee camps.

Those things are: *first*, the distribution of aids to vulnerable goods should be more gender sensitive; *secondly*, the distribution of aids should involve women in decision making/policy and also the aspiration of women. *Third*, the general public should be involved in order to make the issues and interests of women refugees clearer; *fourth*, building meeting rooms that can be accessed by refugees, including women.

The exclusion of women in refugee shelters from policy making and assistance management to refugees or from informal meetings, as the voice of women is considered to have been under-represented, and the inclusion of women that is not considered important has resulted in a number of decisions neglecting the special needs of women.

-Lola Amelia-

Lost Luggage: A Portrait of Poor Flight Consumer Protection Services

A case of lost luggage has occurred again. As reported by detiknews.com on February 9, dozens of Lion Air's passengers from Padang and Palembang, lost their luggage. A case of missing luggage on Lion Air has happened a number of times. For example, the case of the passengers of the Medan-Semarang route who lost their travel bags (2011), the case of the passengers of the Jakarta-Semarang route who lost their Polo bag (2011), the case of the passengers of the Pontianak-Jakarta route who lost a suitcases containing jewelries (2014), etc.

Those cases of lost luggage have made Lion Air the 'lost luggage airline'. This has certainly created losses to both sides, Lion Air as a company, as well as the passengers who lost their rights as consumers. In fact, Indonesia has its own rules related to consumer protection contained in several policies.

Consumer Protection Policies in Flight Services

There are several policies on consumer protection in general, as well as in flight services, such as Law No.8/1999 on Consumer Protection, Law No. 1/2009 on Aviation, and Minister of Transportation Regulation (Permenhub) No. 77/2011 on Air Freight Carrier Liability.

Law No.8/1999 sets out clearly consumer protection, such as rights and obligations of businesspeople and consumers; criminal sanctions; as well as resolving consumer disputes through courts. Moreover, this law has also led to an organization called the Consumer Dispute Settlement Board (BPSK), which can mediate consumer disputes.

In relation to consumer protection contained in the Law No. 1/2009, the legal protection includes: the responsibility for improvement the passenger safety, security, and flight services; the responsibility to

provide compensation, including lost or damaged goods in checked luggage caused by carrier (airline); and the responsibility for the delay time of flight, baggage, or cargo.

Further, the provisions regarding the responsibility to provide compensation are also contained in the Permenhub No. 77/2011.

A Reflection from Lion Air Cases

In the policies above, the government sets out the responsibilities for the airline to provide compensation to passengers who lose their goods in checked luggage with some provisions, namely; 1) the amount of compensation can reach the maximum value of the loss if the passenger can prove that it is a mistake of the carrier (airline) (Law No.1/2009 Article 143 and Article 167); (2) the amount of compensation will be adjusted by the value of the goods if there is a delay and destruction of goods in checked luggage (Article 144, Article 145, and Article 168).

Moreover, the rules and regulation also sets out that the passengers, cabin baggage owners, the owners of checked baggage, cargo shippers, and/or heirs of passengers who suffer a loss, can file a lawsuit against the airline in charge (Law No.1/2009 Article 141 and Permenhub No.77/2011 Article 23).

In some cases of lost luggage, Lion Air has implemented those rules. Unfortunately, Lion Air will provide compensation to passengers, only if it loses the disputes in courts.

For example, the case of Robert – the passenger of Bali-Banjarmasin route who lost his bags. He won over Lion Air in the court, so Lion Air had to pay compensation amounting to Rp.4 million for material loss and Rp.20 million for immaterial loss (detiknews.com, 2014).

Recommendations

The cases of lost luggage in airplane could have been prevented if the Ministry of Transportation, as a regulator, had firmly set sanctions and preventive measures.

Then, if we look closely, the parties who have the authority or access to checked luggage are the employees of the airline itself. So, they can be identified.

As for the solution, Permenhub No. 77/2011 must include rules

regarding preventive measures. In addition, the Ministry of Transportation should provide sanctions to any airline whose passengers often experience a loss of goods (lost baggage case). Aside from revising the rules and regulation, there is a need for the 'active role' of the government, airlines, and also the consumers, to prevent the recurring cases of lost baggage.

In addition to improvements in terms of regulation, the 'active role' of the various parties is (also) needed to prevent the recurring cases of lost luggage.

First, the Ministry of Transportation should improve airport security. In relation to the improvement of airport security, the airlines should improve the supervision or control the performance of their employees.

Second, is the 'active role' of the consumers. In this case, the passengers should be more careful or if possible, passengers should not put their valuable items in the checked luggage.

-Santi Rosita Devi-

With the frequent cases of lost luggage occurring in Indonesia, there should be improvements, which include the revision of regulations, and also the 'active role' of the government, airlines, and consumers.

**THE** **INDONESIAN INSTITUTE**
C E N T E R F O R P U B L I C P O L I C Y R E S E A R C H

The Indonesian Institute (TII) is a Center for Public Policy Research which was officially established since 21 October, 2004 by a group of young and dynamic activists and intellectuals. **TII** is an independent, nonpartisan, and non-profit institution having its main funding source from grants and donations from foundations, corporations, and individuals.

TII aims to become the center for major researches in Indonesia for issues regarding public policy and committed to contribute to debates on public policy and to improve the quality of the creation and results of public policy in the new democratic situation in Indonesia.

TII's mission is to conduct researches that are reliable, independent, and nonpartisan, and to channel the researches results to policy makers, the business world, and civilians in order to improve the quality of public policy in Indonesia. **TII** also has the mission to educate the community in policy issues that affect their livelihoods. In other words, **TII** is in a position to support the process of democratization and public policy reform, as well as taking an important and active role in that process.

The scope of the researches and public policy studies conducted by **TII** covers the fields of economics, social, and politics. The main activity conducted in order to reach the vision and mission of **TII** among others are researches, surveys, trainings, working group facilitation, public discussions, public educations, editorial writings (**TII** expression), publications of weekly analysis (*Wacana*), monthly studies (*Update Indonesia*, in Bahasa Indonesia and English) and annual studies (*Indonesia Report*), and public discussion forum (*The Indonesian Forum*).

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POLITICAL RESEARCH

The consolidating democracy needs direction and guidance in order to realise a strong national political system. In addition, decentralization as part of democratization has created room for more issues in the development of political system in Indonesia. Therefore, political analysis are present for the government, political parties, the business sector and professionals, academics, non-governmental organizations, donors, and civil society to answer recent political issues.

TII's Political Research Division provides policy analyses and recommendations in order to produce strategic policies to consolidate democracy and to achieve good governance at the central and local levels. Types of political research offered by TII are: **(1) Public Policy Analyses, (2) Media Monitoring, (3) Mapping & Positioning Research, (4) Needs Assessment Research, (5) Survey Indicators.**

RESEARCH ON THE SOCIAL AFFAIRS

Social development needs policy foundations that come from independent and accurate research. Social analysis is a need for the government, the businesspeople, academia, professionals, NGOs, and civil society to improve social development. The Social Research Division is present to offer recommendations to produce efficient and effective policies, steps, and programs on education, health, population, environment, women and children.

Social research that **TII** offers: **(1) Social Policy Analysis; (2) Explorative Research; (3) Mapping & Positioning Research; (4) Need Assessment Research; (5) Program Evaluation Research; and (5) Indicator Survey.**

RESEARCH ON LEGAL AFFAIRS

According to stipulations in Law No. 12 Year 2011 on the Formulation of Laws and Regulations, every bill which will be discussed by the legislative and the executive must be complemented with academic paper. Therefore, comprehensive research is very important and needed in making a qualified academic paper. With qualified academic papers, the bills will have strong academic foundation.

TII can offer and undertake normative and legal research related to harmonization and synchronization of laws and regulations, especially in making academic papers and bills. In addition, the research will be conducted with sociological, anthropological, and political approaches in order to produce a more comprehensive academic papers and bills. It is expected that with such a process, the laws and regulations will be produced through such a participatory process, which involves the making of academic papers and bills to also go through process, such as focus group discussion (FGD) which will involve stakeholders related to the laws and regulations that will be discussed.

RESEARCH ON ECONOMIC AFFAIRS

The economy tends to be used as an indicator of the success of the government as a policy-maker. Limited resources have often caused the government to face obstacles in implementing economic policies that will optimally benefit the people. The increase in the quality of the people's critical thinking has forced the government to conduct comprehensive studies in every decision-making process. In fact, the studies will not be stopped when the policy is already in place. Studies will be continued until the policy evaluation process.

The TII Economic Research Division is present for those who are interested in the conditions of the economy. The results of the research are intended to assist policy-makers, regulators, and donor agencies in making decisions. The research that TII offers: **(1) Economic Policy Analysis; (2) Regional and Sectoral Prospects; and (3) Program Evaluation.**

Project or Program Evaluation

One of the activities that have been conducted and offered by TII is a qualitative evaluation on a project or a program of a non-governmental organization or a government agency. Evaluation activities that are offered by TII are a mid-term evaluation and a final evaluation.

As we may already know, evaluation is one of the important stages in the implementation of a project or a program. A mid-term evaluation is intended to see and analyze challenges, lessons learned during the project or the program, and to give recommendations on the implementation of the project or the program. Meanwhile, a final evaluation will be useful to see and analyze the achievements and lessons learned to ensure that all the projects or the program's goals are achieved at the end of the project or program.

THE INDONESIAN FORUM

The Indonesian Forum is a monthly discussion activity on actual issues in the political, economic, social, legal, cultural, defense, and environmental fields. TII organizes these forums as media for competent resource persons, stakeholders, policymakers, civil society activists, academicians, and the media to meet and have discussion.

Themes that have been raised were the ones that have caught public attention, such as migrant workers, social conflicts, domestic politics, and local direct elections. The main consideration in picking a theme is sociological and political reality and the context of the relevant public policy at the time that the Indonesian Forum is delivered.

It is expected that the public can get the big picture of a particular event as the Indonesian Forum also presents relevant resource persons.

Since its inception, the Indonesian Institute is very aware of the passion of the public to get discussions that are not only rich in substance but also well formatted, which support balanced ideas exchanges ideas and the equal involvement of the different elements of the society.

The discussions, which are designed to only invite a limited number of participants, do not only feature idea exchanges but also regularly offer policy briefs (policy recommendations) to relevant policymakers and also summaries to the participants, especially the media people and the resource persons at the end of each discussion. Therefore, the discussions will not end without solutions.

LOCAL COUNCIL TRAINING

The roles and functions of local councils in monitoring local governments are very important. They need to ensure that participative and democratic policies will be espoused. Members of provincial and regent local councils are required to have strong capacity to understand democratization matters, regional autonomy, legislative techniques, budgeting, local Politics, and political marketing. Thus, it is important to empower members of local councils.

In order for local councils to be able to response every problem that will come out as a result of any policy implemented by the central government or local governments, the Indonesian Institute invites the leaderships and members of local councils to undergo training to improve their capacity.

WORKING GROUP

The Indonesian Institute believes that a good public policy process can be held with some engagement and empowerment of the stakeholders. The Indonesian Institute takes a role as one of mediator agencies to facilitate some forums in which the Government, Council Members, Private Sectors, NGOs and Academicians can meet in interactive forums. The Indonesian Institute provides facilitation on working groups and public advocacy.

The Indonesian Institute takes the role of mediator and facilitator in order to encourage the synergy of public policy work between the stakeholders and policy makers and also to have a synergy with funding agencies (donors).

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