

Post Elections Conflicts in Indonesia and their Democratic Resolution

Askarial^a, ^aThe Lecturer of Criminology at Universitas Islam Riau Pekanbaru-Indonesia, Email: askarial@soc.uir.ac.id

Local elections in Indonesia gain a national political agenda and a priority of democracy, a challenge for the Indonesian political system to execute fair and transparent elections. Contestants often indulge in post-election battles and conflicts, raising doubts over the success of the democratic political set up. This study delves into the issue of elections, from campaigning to the declaration of results, and the role of the Supervisory Committee in maintaining the decorum of the democracy. It argues how a democratic country like Indonesia must establish a code of conduct and develop an awareness among its people to participate in elections with the willingness to accept win or loss. In any competition or race, there are always winners, but there are also losers. If all win or all lose, it is not a competition. Hence, contestants must be prepared to win or lose. The Law Courts and the Constitution must also ensure that contestant develops an attitude of tolerance and that they work professionally to contest a fair election in Indonesia, mitigating any conflict to be brought to a Constitutional Court.

Key words: *Indonesia, Election supervisory committee, constitutional court, Democracy*

Introduction

O'Neil said "all politics is local", which means that politics is capable of awakening a strong and democracy at the local level. In other words, a democratic system is not only built at the national levels but also local, grass-root levels. At national levels, it is mostly a pseudo-democracy; but when elections are held locally, the real democracy is built. Such elections can be held for any levels: parliamentary, council, the election of the president and vice president, and like. In all such elections, local elections play a very substantial role because there is ample political participation of the individuals who are the part of a democratic system. The people of a local region are directly involved in the elections as they would



participate in a community event. Moreover, to ensure political legitimacy, it is vital to get the support of a majority of the local public in order to create political stability.

In addition, conflicts and issues during elections can also be easily resolved at the local levels as the head of a local region is elected by the people directly. Regarding money-related conflicts, it cannot be, however, guaranteed that local politics can eliminate indirect elections. The process of bribery may be seen in the Parliament elections, but it does not happen in local elections of the community. The candidates in local elections cannot be easily influenced by bribing. Political competition too at local levels is very healthy competition, and it produces a leader who presents a good image even at the national level.

Lord Acton once said, “Power tends to corrupt, absolute power corrupts absolutely”, which means that power tends to corrupt or damage; therefore the General Election Commission (KPU), being one of the organizers of local elections, should be completely controlled and supervised, for their power may be abused. It is essential to monitor their work proportionally to ensure whether they carry out their duties and responsibilities effectively. The power abuse may be evident at the stage of counting votes which would give rise to conflicts. This has happened in several local regions of Indonesia, where elections were conducted.

There are various other reasons of conflict related to local elections. Often the losing side mobilizes *en masse* on behalf of voters who could not exercise their right to vote and demand reelections. In case when a state is making a transition to a democratic state, it is crucial to evaluate shortages and lapses within the legal framework and accepting the legislation in force. Such conflicts in small regions where the elections took place also face a political competition, though its scale is smaller compared to the national level political competitions. But despite the small regions, the political elite of these regions where the elections took place, is capable of mobilizing the masses efficiently and exert political pressure to achieve their vested interest. In addition to political reasons, the conflict may also occur due to the attitude of political elites who are not ready to accept defeat and wish to harm their rivals.

In America, for example, after the counting of votes, the losing candidate immediately concedes defeat and recognizes the victory of his rival candidates. This shows their belief in the good statement that it is the people who want the best leader to serve them. Nobody wants the election dispute to turn into sharp and open conflicts which may become difficult to control. In such a situation when there is a problem related to post counting of votes, there may be two ways to resolve: First, all parties must be encouraged not to use methods of thuggery and violence in exerting political pressure, as it would cause further backlash on them and they would feel more pressured resulting in a situation more complicated. Second,

those who feel aggrieved should be advised to respect the electoral process and take legal action in order to resolve problems, if any. Some laws have set about violations and penalty on elections breaches and violations of the code of conduct. Legal action is the best way to secure a redressal and the two parties in dispute must comply with any such legal redressals.

Elections Fraud and Violations

According to Susan Hyde, et al (2008) in *Election Fraud: Detecting and deterring Electoral Manipulation* identified that the key issue in elections was to identify and prevent the occurrence of the phenomenon of electoral fraud, election manipulation, or vote rigging. The election fraud occurs due to the interventions of illegal processes incurred by the election mechanism. Such illegal processes may affect the counting of votes and also the outcome of the elections, in the form of either increasing or reducing the voting results, or both, for specific candidates. Although technically the “electoral fraud” includes an illegal act that violates the law, the legal action is morally unacceptable. It does not reflect the spirit of the electoral rules, and stand contrary to democratic principles included in the category of “electoral fraud”.

Hyde identifies various types of electoral fraud :

1. The voter manipulation (e.g., demographic manipulation; removal of the right to vote; breaking the opposition support; etc.)
2. Intimidation
3. Buying and selling voice of voters
4. Misleading information
5. Manipulation of ballot papers
6. Double vote
7. Manipulation in the recapitulation
8. The use of false voters
9. Destructive ballots
10. Piracy in the information technology systems of voting
11. Piracy suffrage
12. Manipulation of the results of recapitulation

This categorization by Hyde defines the election fraud and explains the actual problems faced in Indonesia during elections, from the preparation stage until voting.

The law of the Republic of Indonesia Number 10 the Year 2016 relates to the election of Governors, Regents and Mayors, and sets the terms of violations of elections. Gakkumdu, namely the National Police handle the criminal offenses offences under this law; administrative violations are handled by the Attorney General and Election Supervision Commission, while the Constitutional Court handle the violations of code of ethics and

disputes on vote counts. Election Supervision Commission lists various potential political problems during elections which include money laundering, black campaigns, bullying, misuse of government facilities, engagement of children in campaigns, mobilization of civil servants, the misuse of educational and religious facilities and campaigning beyond the permitted schedule.

The Minister of the Interior highlights several fraudulent and criminal issues usually faced by the Police and listed as under:

1. The voters' list is always a problem and its violation a common offence, but not once have the instruments of law ever enforced penalties on those responsible for these offences.
2. The voters' data has not been synchronized since 2017 election, and therefore, a few voters do not have their electronic identity card (e-ID). This condition occurs in areas such as the city of Cimahi, Tasikmalaya, Salatiga, and Kota Batu. This disrupts the process of establishing a voters list at the time of elections.
3. It is also felt that the election supervisory body often fails to achieve the optimization of their role and functions. In such a case, the dispute settlement mechanism of the electoral administration is not visible.
4. There is also growing doubt about the independence, integrity, and credibility of the election organizers. The organization fails to comprehend and resolve all the problems of organizing an election.
5. A common problem is the community participation or voters amassing during elections events. This becomes an obstacle during the time of the campaign, on the voting day and particularly when the results are announced.
6. Community involvement in electoral processes is often not visible as representatives of neither side are present at a polling station on the voting day.
7. Similarly, a political party or its representatives are present anywhere and at any time but only during the election days, and there is no political activity until the next elections are held again. However, Law No. 2 of 2011 on political parties urges political parties to carry out political education to the masses.
8. The Indonesian provinces have their local characteristics, due to which no political or electoral activities can be carried out. Hence there are huge problems and a burden on the electoral process and election organization when the next elections are carried out.
9. The law enforcement mechanism also proves ineffective to curb or prevent criminal offences during elections due to technical and non-technical reasons.
10. Besides, there are a few crucial issues threat to the integrity of the election, such as money politics, black campaigning, abuse of power, the political neutrality of the

bureaucracy, mobilization of civil state apparatus and above all religious issues of alleged blasphemy by candidates.

11. There are still some areas that have not signed the NPHD for securing the elections simultaneously to ensure enjoy the privilege to implement the security support for the optimization of the simultaneous election in 2017.

Due to these various issues, the elections at local levels face severe constraints. A need is direly felt to frame comprehensive regulations. Such regulations are required not only for the organizers of the election, but also for the law enforcement mechanisms as well as the participants who could then follow the election code of conduct.

Additionally, there are a few vulnerable points at each stage of direct local elections. Precautionary measures must be taken to avoid them to grow and create further problems. These vulnerable issues appearing at various stages of elections include: for instance, at the preliminary stage, there is often conflict due to non-acceptance of a candidate by the Election Commission candidates; Second, at the campaign stage, often candidates are involved in black campaigning provoking violence between groups of supporters of candidates. This is the most vulnerable stage, and the Elections Commission should ensure that campaigns remain in the framework of the vision and mission of each candidate. Candidates should also create a peaceful and polite political environment rather than build and transmit bitter emotions are across groups of people. Third, at the stage of voting and vote counting, there are manipulations of vote count results by those who are not satisfied and feel aggrieved. It is essential to curb such reactions, and the Election Supervisory Committee needs to monitor the activities of each candidate during this stage. Last but not least, after the announcement of the results, the defeated party fails to appreciate the victory of the other party and get indulged in violence. They need to admit defeat and involve in self-introspection and self-assessment for future elections.

Conflicts post elections

Soon after the 2015 elections, about 150 lawsuits were filed in the Court related to the outcome of the results, out of which only five lawsuits were eventually followed. The other issues were related to issues that of administration, campaigning, voter participation, and political and social impact of the results. Similarly, after the 2017 election, the Constitutional Court (MK) received 33 cases of disputes over petty disputes. These elections are held across 101 regions, in 7 provinces, 76 districts, and 18 cities of Indonesia. The seven provinces included Aceh, Bangka Belitung, Jakarta, Banten, Gorontalo, West Sulawesi, and West Papua.

Such conflicts are phenomenal and are inevitable, based on the conflict of interest of each candidate. This conflict needs to be managed so that public interest is not compromised.



Often conflict in a region is built up before the elections, hinting that the conflicting parties have a history of conflicting interests and hence differences would be there. In such cases, the victory of one party becomes symbolic of its prestige but gives enough reason to the losing party to take revenge and express displeasure. In such cases, personal interests are put above common interest. Such losing parties stimulate conflict amongst the people and develop a kind of local political competition, which is not so healthy. Besides, there is ample use of other practices like using political money, indecency and arrogant attitude.

Conflicts breeding from arrogant attitude usually result in thuggery or frauds to scare the opponent groups. The objective is to prove the superiority of one group over the other, that one group is more influential and more powerful, for which the group was willing to resort to abject means such as thuggery instead of more rational ways. The other type of conflicts which result in political mobilisation are in the name of ethnicity, religion, region or race. Conflicts because of ethnicity and religion potentially occur in areas facing ethnic tensions or in regions inhabited by several natives and newcomers. The conflict in the name of race appears in areas which still have the impact of former sultanates and kingdoms and where political relations depend upon social class or status.

Likewise, conflicts are arising out of sourcing of funds used in campaigns and elections. The expenses incurred on pre-party primaries, general elections and thereafter have attracted the attention of academic researchers and political analysts (Jide, 2008). This had given rise to the concept of money politics (Walecki, 2008), which deals with the money spent on electioneering or campaign purposes. Conflicts arise when there is a question whether this money was collected and spent by candidates while remaining in public offices or by their political parties. The word 'money politics' with a pejorative connotation, has crept into the country's political lexicon. It is now a critical variable when assessing the level of political corruption in the country (Davies, 2006). There are suggestions to move from the politics of money and materialism to politics of ideas, issues and development (Obasanjo, 2003) and segregate money politics from vote-buying and selling (Ojo, 2008). Citizens who supported a losing candidate or party in a national election consistently display lower levels of satisfaction with democracy, trust in government, and weaker beliefs that the political system is responsive to citizens than citizens whose preferred side won (e.g. Anderson et al., 2005; Esaiasson, 2011)

Electoral Reforms and Election Supervisory Committee

The first Electoral Reforms in Indonesia took place with the amendments to the 1945 Constitution, which caused some political consequences, and resulted in the derivation of a few laws and regulations and allowing political rights to people who had experienced depoliticization. However, despite the implementation of reforms in vote count procedures by the Election Commission, candidates may still have doubt on its effectiveness. The Law,



therefore, allows in such cases where candidates feel that an election was not run well, they can submit a claim to the Constitutional Court (MK). Based on Court regulation No. 3 of 2016, the registration of all new disputes and claims can be carried out by applicants only after the Commission had announced the voting results. Such requests for claims can only be filed jointly by a pair of candidates and election observers, who were registered with and accredited to the Commission. These disputes relate to the results of the election, so the court restricts each lawsuit based on the difference of votes between the winner and the loser. However, whatever is the gap of the votes, it could not prevent a candidate from seeking justice. Such petitions after the voting results deal with accusations of fraud and questions raised on the manner the elections were structured. Other requests dealt with complaints about organizing elections, mass mobilization, money politics and on the candidature of the party leaders.

Indonesia also seeks reforms in its practice of democracy and performance of the Election supervisory committees to ensure a complete, electoral process. Act No. 32 of 2004 on Regional Government outlines that the local election supervisory committee should consist of representatives from the Police, Universities, press and public figures. Thus the Election Supervisory Committee should work with more responsibility because its members come from various strategic groups. a few of its important tasks include :

1. To establish election supervisory commission in districts and sub-districts area.
2. To oversee all phases of conduct of elections.
3. To report election violations.
4. To resolve disputes.
5. To pass on the findings and reports to the relevant authorities that cannot be resolved.
6. To set a supervisory committee for coordination at all levels.

Besides, the supervisory committee should also prepare strategic steps in anticipation of the vulnerable points, such as overseeing that the election commission officers do not manipulate the results on the counting day. The committee also can make systematic and practical monitoring of all the levels to act quickly if there are violations during the elections. It can also reinforce the rules and sanctions regarding violations of the mobilization of supporters. It can also prohibit the use of government facilities/state machinery for campaign purposes. It must see that the content of the campaign is not slander/character assassination or negative. For democracy to remain viable, losers must put aside their negative feelings and consent to be governed by the winners. If the “losers’ are not managed, they can destabilise the democratic regime (Nadeau & Blais, 1993; Anderson et al., 2005).



Besides, there are a few activities that must be supervised by the election supervisory committee, namely controlling the implementing agencies (the Election Commission), monitoring the candidates and their supporting political party; ensuring that the political rights of voters are protected. The rights of these voters are stated in the law 32 of 2004 which includes the right to be free to attend the campaign, right to know the vision, mission and programs in writing of each candidate, the right to be a part of a polite, orderly, and educative campaign, the right to access information about the elections through mass media, the right to obtain information about the results of the audit of campaign funds within three days after the election commission receives it from a public accountant, the right to a day off on the day of the election, the right to obtain information about the campaign team, the right to obtain information on the results of audits of campaign finance and the right to obtain information on election results. Additionally, the public also has the right to be free from money politics and the right to be free from fraud and misuse of public facilities by public officials.

Indonesian democracy depends much upon the autonomy of Indonesian politics. To ensure compliance of Democratic procedures, the elections must follow code of conduct, legitimacy, and an intention to develop and promote the regions. As stated by Anis Matta (2014), democracy is not merely a mechanistic system, but also a way to solve the problem, the tools to navigate life, which we think is appropriate for the builders of the nation. So is the perspective of Riyas Rashid (2010), who recommend establishing a democratic culture by digging deeper into the substance of true values of democracy while maintaining an open attitude to criticize and correct it. No one system is perfect; there is a system that seems right to resolve the issue within a specified period. JW Gardner (1988) also opined that a democratic leader creates a “state of mind” or a psychological situation in society by the way bearing and articulating goals that drive people from their interests to the common interest higher.

The democratic legitimacy can also produce real effects if it is a stable democracy, which limits the latitude leaders to implement potentially desirable policies, which encourages citizens to embrace potentially risky changes in the democratic process (Hetherington, 1998; 2005; Bowler & Donovan, 2007; Hetherington & Husser, 2012). More recently, the likelihood of citizens engaging in protests against democratic governments has been directly attributed to distrust resulting from unfavourable election results (Anderson & Mendes, 2006) and to distrust of the electoral process in particular (Norris, 2014). The idea that legitimacy can be affected by election outcomes is closely tied to theories of procedural fairness (also called procedural justice). Theories of procedural fairness suggest that people will tend to accept unwanted outcomes if they perceive the decision-making process that produced those outcomes as fair (Grimes, 2006; Tyler, 2006; Levi, Sacks, & Tyler, 2009).



Conclusion

To conclude this study, it should be reiterated that in any competition or race, there is always a win and a loss. If there is a winner, there is also a loser. If all win or all lose, it is not a competition. Candidates in elections must be ready to follow this code of conduct that they must be prepared to win, as well as to lose. Ready to win or be prepared to lose is a sign of sportsmanship. In the event of defeat or loss, self-reflection is the only course of action. The loser must indulge in self-introspection and assessment of the causes of failure. The losing candidates should avoid blaming other people. The defeat should be a motivation to be excited, to perform better next time. The attitude of the elite, especially the losers, should be of politeness, politicking in a healthy, cultivating the attitude of accepting defeat, and the maturation of politics. The Election Commission must also ensure that parties do not develop mutual suspicion over the execution of the election mechanism.



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