

Bawaslu and the Dynamic of Election Monitoring in Indonesia

MUHAMMAD FEBRIANSYAH
School of Social Sciences
Universiti Sains Malaysia (USM)
 Penang, Malaysia
 febrian@usm.edu.my

MUHAMAD TAKIYUDDIN ISMAIL
Political Science Programme
Universiti Kebangsaan Malaysia
 (UKM)
 Bangi, Malaysia
 taki@ukm.edu.my

NORAZAM MOHD NOOR
Political Science Programme
Universiti Kebangsaan Malaysia
 (UKM)
 Bangi, Malaysia
 Azamnoor88@gmail.com

Abstract— This paper examines the election monitoring in Indonesia with a specific focus on a unique element in Indonesian elections that is the Bawaslu, an official institution established to observe and monitor the electoral process. Bawaslu had gained considerable juridical authority since 2017, granted by the election law, to not only monitor and provide recommendations, but also has the power to intervene with the electoral process and to judge any electoral offence. In the case of 2019 concurrent election, Bawaslu’s newfound authority had led to a constant conflict with the KPU. It is also argued that Bawaslu’s existence is one of the causes that have led to the declining participation of local or international civil society in election monitoring in Indonesia. This research uses observational study to evaluate the 2019 concurrent election and interviews with KPU, Bawaslu, as well as local and international election monitoring NGOs in Indonesia. We argue that Bawaslu’s current role is not ideal in the context of Indonesian electoral system because the participation from civil society in election monitoring is still very much needed in democracy consolidation in Indonesia.

Keywords— Election Monitoring, KPU, Bawaslu, Elections in Indonesia Introduction

I. INTRODUCTION

Indonesian electoral system is no stranger to frequent change after Reformasi 1998. The year 2004 saw the first direct presidential election ever held in the country, followed by the holding of regional elections, and continued to evolve ever since—the latest change would be the concurrent elections held in 2019. The original plan is to see all national and regional executive and legislative elections being held concurrently by 2027 [1].

Based on the typology of elections proposed by the expert on election monitoring, Eric Bjornlund Indonesia should have already reached the stage of “regular elections” [2]. That is to say, the country has long passed the “transitional elections” and “consolidating elections” phases. A regular election consists of an already established (and accepted) set of electoral rules, laws, and procedures that no longer become a source for controversy, as well as the normalisation of the election and its implementations amongst the citizens. This, however, could not be observed in the 2019 concurrent elections, which was dubbed as the most complex election ever held, where it had raised a number of controversies regarding its implementation rules

and procedures. One of the many controversies is Bawaslu’s huge role in not only monitoring the electoral process, but also to decide on electoral offence cases with its newfound juridical authority endowed by the law. Such powerful position often put Bawaslu in conflict with KPU as the election organiser, which eventually disrupted the smoothness of electoral process.

While it can be generally seen as a success, the 2019 concurrent elections was still impaired by various confusions caused by confusing rules, technical problems, and human errors. This situation had opened up opportunities for interested parties to influence public opinion with allegations that the election organisers—KPU and Bawaslu—were bias and favouring certain candidates, sparking demands for international election observation bodies to monitor the 2019 election. Viral hashtags such as #INAelectionobserverSOS on social media sites during the campaign period had raised the election observation issue as one of the key concerns in public discourse prior to the election.

Furthermore, Bawaslu’s increasing dominance in election monitoring and observation is also perceived as the reason for the declining participation of domestic or international NGOs in election observation in Indonesia. Bawaslu is said to be taking over election observation and monitoring works previously done by election observation NGOs [3]. Such situation suggests the presence of a state-oriented election monitoring, which contradicts democratisation theory that proposes limiting interference and control by the state while strengthening the role of civil society as the basis for any transparent election [4].

On a positive note, the decline above can also be interpreted as a sign of Indonesia’s democratic maturity and stable democratisation which, after factoring, is no longer considered as a democratically at-risk country amongst the international election observation bodies. Indonesia receive almost full marks (11/12) in the election implementation category in Freedom House 2018 report. The assessment by the institution that produces the democracy index finds Indonesian electoral system as free and fair, as well as organised by neutral and impartial election administrators [5]. International election observation bodies no longer have direct involvement in Indonesian electoral monitoring after the 2009 general election [6]. The reason is that they are typically more interested in post-conflict elections, transitional elections, and consolidating elections.

The role of civil society remains an important aspect of elections—not only in their participation to hold a successful election, but more importantly to improve the quality of democracy as a whole, including political and civic education amongst the citizens. A relatively good and successful electoral system does not necessarily translate to the improving quality of democracy in a country. The 2019 concurrent elections, for instance, still saw candidates who were being trialled under corruption allegations at the time managed to secure a significant number of votes, which indicates the lack of political and civic education amongst the citizens [7]. This was one of the conflicting decisions that put KPU and Bawaslu at loggerheads with each other. Despite KPU's firm rejection on candidates who have ever been found guilty under any corruption cases, Bawaslu nevertheless forced KPU to accept their candidacy. This is one of the many instances of Bawaslu's controversial actions that being viewed as impairing the electoral process and the quality of democracy.

This paper discusses the role of Bawaslu and the dynamics of election monitoring in Indonesia. This research uses observational study to evaluate the 2019 concurrent election and interviews with KPU, Bawaslu, as well as local and international election monitoring NGOs in Indonesia. We observe the transformation of Bawaslu to its most influential position in the 2019 general election. At the same time, domestic election observation bodies also transformed themselves to adapt with the change of electoral system that provides larger authority to Bawaslu. Moreover, the advancement of information technology have also sparked new initiatives in electoral monitoring that involves the participation of the general public such as Kawal Pemilu Jaga Suara (KPJS) and Mata Massa. We argue that Bawaslu's current role is not ideal in the context of Indonesian electoral system because the participation from civil society in election monitoring is still very much needed in democracy consolidation in Indonesia.

II. BAWASLU AND DOMESTIC ELECTION OBSERVATION BODIES IN INDONESIA

The existence of state-led official electoral monitoring institution such as Bawaslu is uncommon in international practice. Other than Indonesia, there are only two other countries that have official institution to monitor the electoral process namely Mauritius and Zimbabwe [8]. Such uncommonness is due to the established norm amongst democratic countries that normally leave the electoral monitoring role to civil society. In the context of Bawaslu in Indonesia, it can be traced back to the attempt of the New Order regime to provide legitimacy to its ruling. On the one hand, the New Order regime suppressed the civil society and did not welcome the presence of international election observation bodies to Indonesia—which did not raise a conflict since international election observation bodies are typically uninterested to monitor elections in authoritarian countries as they are being perceived as uncompetitive [9]. On the other hand, the regime also wanted to showcase and justify that elections under the New Order regime were transparent and fair. Thus, the regime established *Panitia Pengawas Pelaksana Pemilihan Umum* (Panwaslak) in 1982

to serve as a “Potemkin village” to provide justification and legitimacy to its elections. In actuality, however, the board was occupied by bureaucrats appointed by the state. As Zimbabwe started to empower its civil society by abolishing its official election observation institution in 2008 and returning the monitoring role to civil society, Indonesia, ironically, kept strengthening the role of Panwaslak in its electoral system which later transformed into the Bawaslu that we know today.

The establishment of the Independent Election Monitoring Committee (KIPP) in 1996 was the first attempt by Indonesian civil society to monitor the elections. It was inspired by the success of National Citizen's Movement for Free Elections (NAMFREL) in the Philippines. Like NAMFREL, KIPP was born amidst the increasing political suppression by the waning New Order regime threaten by a seemingly inevitable public uprising. KIPP consisted of journalists, NGO activists, students, and academicians, as well as members from *Parti Rakyat Demokratik* (PRD), an illegal political party responsible for inciting mass mobilisation against the regime since mid-1990s [10]. The New Order regime accused PRD as the perpetrator for the riot in Jakarta on 27 July 1997, which consequently became a catalyst for mass resistance by the people during the campaign period, thus making the 1997 election as the bloodiest election in the history of the New Order. Riots and political violence involving supporters from contesting parties as well as confrontations between the people with state apparatuses have taken more than 300 lives and huge amount of destruction of public property throughout the campaign period [11]. The tension atmosphere greatly influenced KIPP's monitoring strategy where they could not openly monitor the election, while in some cases, they had to use fake names or identities for security purposes [12]. Despite all that, KIPP managed to mobilise more than 9000 volunteers to cover 600 polling booths all over Indonesia [13].

The appearance of KIPP had also attracted the involvement of international organisations in the 1997 general election. The National Democratic Institute for International Affairs (NDI), for instance, provided trainings and technical assistances to KIPP in mobilising civil society in monitoring the election as per KIPP's request. KIPP also was supported by NAMFREL, AEC (Australian Election Committee), IFES, FES (Friederich Elbert Stiftung), and other election organizations with regard to election skills, training, and technical assistant. FNF (Friederich Naumann Stiftung), USAID, and The Asia Foundation supported with financial assistance and provided the opportunity for KIPP staff to participate in election in other countries [14].

Amidst the challenges and threats by the state apparatuses that forced them to move underground, KIPP proved its capability to make credible and independent assessments during the last election of the New Order [15]. Although the 1997 election results did not change the winning trend of the ruling party, Golkar, but it had succeeded in creating a new political platform for the civil society to commit themselves in election monitoring and the struggle for democracy.

Reformasi had expanded the democratic space for civil society to monitor the election. Several other domestic election observation bodies emerged such as Forum Rektor, University Network for Free and Fair Elections (UNFREL), and *Jaringan Pendidikan Pemilih Untuk Rakyat* (JPPR) not long after Reformasi with the intention to monitor the 1999 general election. The transitional election saw the largest participation from election observation organisations and volunteers.

Two key factors contributed to the huge interest on election monitoring in 1999. Firstly, the 1999 general election was a transitional election. As argued by Bjornlund [16], transitional elections usually attract the interest of international organisations. Nevertheless, these international bodies still require the assistance of local partners that have in-depth understanding of the local context as well as providing manpower for monitoring. This condition leads to the second factor that is the need for international observation bodies to have reliable local partners, thus, the channelling of funding to prospective local counterparts which eventually gave birth to various domestic election observation organisations in Indonesia.

Sharon Lean [17] describes two types of observers. First, an organisation that is established for the purpose of monitoring elections; and secondly, a coalition of various NGOs that collaborate together to build the infrastructure for election monitoring. Many of the NGOs occupy the latter category where they work in specific issues that are not related to elections. Migrant Care, for instance, advocates for the wellbeing of Indonesian migrant workers overseas, but during election times, they also participate in monitoring the voting process of Indonesians overseas. These NGOs typically do the monitoring activities through their networks.

By the 2009 general election, international bodies have stopped sending observation mission to Indonesia altogether. With foreign donors also shifted their orientation from observation to voter education, it is proved to have great implication on domestic election observation organisations which previously relied heavily on foreign assistance from these international bodies. Both Forum Rektor and UNFREL, amongst the earliest election observation organisations, had since ceased their operations and became inactive, while other organisations such as KIPP and JPPR were forced to reduce their scope of observation due to limited funding and human resources [18]. However, the decline of accredited observers from these organisations does not necessarily mean declining participation of the people to monitor the elections. The 2014 general election marks the birth of public participation in electoral monitoring through the IT-based crowdsourcing method. One of the finest examples from this new phenomenon is Mata Massa (matamassa.org) and Kawal Pemilu (kawalpemilu.org). Mata Massa is an application launched by the Indonesian Journalist Alliance that was registered as an election observation organisation in 2014 as well as ICT Laboratory for Social Changes (iLab) in November 2013. This application receives reports on electoral offences through smartphones. On the voting day, Mata Massa

received 1,509 reports of electoral offences, and almost 90 percent of the reports were acknowledged by Bawaslu [19].

Kawal Pemilu on the other hand is a website created by Ainun Najib, an Indonesian citizen living in Singapore, and some other Indonesians living overseas. They set up a group called Kawal Pemilu, or Guard the Election, to independently verify the vote count. They put out a call on Facebook for volunteers to help, and within hours, they managed to recruit 700 volunteers to upload vote counting results in every polling station amounting to 478,828. Their volunteers have various backgrounds: from high school students to senior citizens, and they did not receive any sort of payment or allowance [20]. Since the uploaded data was official results from every polling station, thus its accuracy is similar to results released by the KPU. The difference is that Kawal Pemilu only needed three days to announce the nationwide voting results while KPU needed two weeks to announce the same thing. Kawal Pemilu can be seen as a successful public participation in the Indonesian elections. KPU appreciated the method used by Kawal Pemilu, seeing it as complementing their role in electoral process [21]. KPU had since adopted the same method to organise the regional elections.

The 2014 general election is a fine example that highlights the decline of election observation NGOs does not necessarily mean a low public participation in monitoring the elections. Despite the declining trend of NGOs participating in election observations, the 2019 concurrent election shows an increase of volunteers compared to the 2014 election. Prior to the 2019 election, KIPP claimed that they will mobilise around 19,000 volunteers; while JPPR had already recruited some 85,000 volunteers [22]. ANFREL, that was last seen observing the 1999 election, had also returned to observe the 2019 concurrent election. One of the international bodies registered under Bawaslu was Asia Democracy Network (AND). Altogether, 138 local observers and 31 International observers received accreditation [23]. Upon closer observation, however, most of these local NGOs only operate within the regional scope—and it can be assumed that they only did observation within the scope of their own province. Again, we are reminded that the number of accredited NGOs should not be seen as an absolute indicator to gauge the quality of national election observation.

III. THE INCREASING ROLE OF BAWASLU IN THE 2019 CONCURRENT ELECTION

KPU was responsible of awarding accreditation to observers before Bawaslu took over the authority in 2017. This is parallel with the increase of Bawaslu's function which gained an equal footing with the KPU when the former ceased to be structurally subordinated under KPU since 2008. Bawaslu's position is no longer characterised by its former ad hoc character, but assumed a permanent role like KPU. Furthermore, *Undang-undang NO. 7 Tahun 2017 Tentang Pemilihan Umum* (UU No.7/2017) endowed Bawaslu with a larger authority than KPU where it also has juridical authority to decide on electoral offences.

Bawaslu also received 8 trillion Rupiah in allocation, exceeding the budget of Ministry of Home Affairs [24]. Several respondents from the NGO circle argued the budget was too large and does not correspond to the expected result produced by Bawaslu. The huge allocation can be understood in relation to Bawaslu's work results in the previous general, presidential, and regional elections which were deemed as better than its work during the 2019 election. The problem only arose after the 2019 electoral process started vis-à-vis its newfound authority.

Most of the respondents from election observation NGOs we interviewed see a contradictory and overlapping roles within Bawaslu regarding its juridical authority and its monitoring function.

Titi Angraini from Perludem states that:

“Bawaslu’s juridical authority overlaps with its monitoring function. The fact that, for instance, it supervises all the election stages means that it also involves in the process. Then, Bawaslu also has the second authority to process the election violations. The third authority is its juridical function where it can decide on election-related matters. For instance, election disputes. Bawaslu not only has the authority to decide on election results, but also the election process results. Now, how is it possible that you, as the one in charge supervising the process and already has a ‘back mind’ in your head based on your supervision, can also be the judge? Is it not overlapped?” [25].

The overlapping functions have made Bawaslu inclined to focus its attention on monitoring KPU as an election organiser rather than monitoring political parties or electoral process in general. This also can be clearly observed in the case of Oesman Sapta Odang, the leader of Hanura party and candidate for the Regional Representative Council (DPD) seat. KPU rejected the candidacy according to the precedent No.30/PUU-XVI/2018 made by the Constitutional Court that forbids any candidacy from party leaders to contest for DPD seats. Oesman later reported the matter to Bawaslu, which in turn, questioned KPU’s decision. The case had blown out of proportion and sparked debates and conflicts that was later vulgarly shared by the media and became public consumption. KPU argued that Bawaslu should only monitor and ensure that KPU is doing its job in accordance with the rules rather than questioning rules and regulations issued by KPU; even more so if the decision was made according to the binding laws i.e. the decision by the Constitutional Court. In the case that Bawaslu does not agree with regulations issued by KPU, it must appeal for juridical review in the Supreme Court [26]. Hadar Gumay, former commissioner of KPU and the founder of Netgrit election observation organisation, adds that:

“They [Bawaslu] put themselves as the institution that does not respect the KPU because they do not see KPU’s regulations [as binding to them]. This is one of the problems. They were given the authority to monitor the election and to supervise KPU. If something is not in accordance,

not only to the law, but also KPU’s regulations [then it should be considered as a violation]. So, they also have to respect KPU’s regulations. But this current Bawaslu does not [respect that]. If KPU decides [on a matter] and does not include your suggestion, then you have to accept it gracefully (sic.) because KPU is independent. If you still want to challenge [the decision], the law says that you have, in 30 days, to challenge it to the Supreme Court. Bawaslu never did that.” [27].

Similar sentiment is shared amongst other respondents from election observation NGOs. In the case of Oesman, majority of the respondents from NGOs and experts agreed with KPU’s stance and sees Bawaslu as a political tool to suppress KPU in order to secure their interests. Respondents see the establishment of Bawaslu as a separate institution from KPU is a part of political parties’ scenario. One academics respondent states that:

“Recently, we can see that Bawaslu had developed more power, granted by people in the Parliament because in actuality they need some room to play. The more institutions that you can play with, the more opportunities you can have. Why Bawaslu has more power these days? It is because the DPR [Parliament]; and DPR is controlled by political parties, [and it is the nature of] political parties to want to make use of any opportunity or room they have to gain power. And they support Bawaslu to have more power so that they can play through them. Sometimes if you’re playing with KPU, you can only play with the vote-trading. It’s a huge problem in Indonesia. But then, with the Bawaslu, you can also play some balancing power through Bawaslu.” [28].

Bawaslu did not entirely reject the allegation regarding the existence of power relation in Bawaslu’s role since Bawaslu’s commissioners are all appointed by the consensus of the Parliament. But the respondent from Bawaslu sees this as a form of post-power syndrome suffered by KPU that felt challenged by the increasing role of Bawaslu. Before, Bawaslu was under KPU, but now it has the power to cancel decisions made by KPU [29].

Respondents also see the case of Oesman Sapta Odang as a concrete example of how Bawaslu can be manipulated by politicians. The issue could be easily resolved if Oesman agreed to resign from his position in the Hanura party. But he preferred to use Bawaslu’s channel to fight for his candidacy. The case was later trialled in *Pengadilan Tata Usaha Negara* (PTUN) which decided that KPU had violated the rules and regulations with its refusal to adhere to Bawaslu’s recommendation. KPU also received a letter from the Presidential Palace requesting them to adhere to PTUN’s decision to allow Oesman’s candidacy [30]. This action can be easily understood since Wiranto, a former founder of Hanura party, was one of the ministers who held key portfolio in the cabinet. In this case, KPU received recommendations from four different institutions. On the

one hand, there was the Constitutional Court; while on the other hand, there were Bawaslu, PTUN, and the government. This case not only show the overlapping roles of Bawaslu and KPU, but also their tendency to always being at loggerheads with each other.

The Oesman's case also shows that KPU has the authority to refuse to follow the recommendations provided by Bawaslu. This is not the only case where KPU did not follow the recommendations by Bawaslu. KPU remained firm with its decision to reject the candidacy from politicians who have been sentenced for corruption. Despite the refusal, Bawaslu kept pushing for the approval for their candidacies. The case was brought to the Supreme Court and the decision sided with Bawaslu. Nevertheless, political parties were compelled to retract the candidacies of those who have been charged with corruption due to strong pressure from the civil society which eventually ended the dispute between Bawaslu and KPU such as in the case of Oesman [31].

Open conflict and hostility between KPU and Bawaslu continues after the election. In Palembang, five KPU commissioners were charged in court due to their refusal to follow Bawaslu's recommendations. The case started when the Bawaslu Kota Palembang reported to Sentra Gakkumdu (*Integrated Law Enforcement*) that KPU Kota Palembang was considered to refuse Bawaslu's recommendation to have a re-election process for an area that did not have sufficient voting papers [32]. Sentra Gakkumdu is an ad hoc unit consisting of Bawaslu, the police, and attorneys that focuses on election monitoring where reports from the public can be channelled here for immediate response.

The three cases above shows the root of the problem is the overlapping functions of Bawaslu and KPU, where these problems would have never blown out of proportion in the previous general, presidential, and regional elections.

IV. CONCLUSION

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After 20 years of democratisation, Indonesia is still struggling to find the best electoral system and mechanism. The effort is done through trial and error process; and it is not uncommon for it to be decided by political contestations in DPR. The frequent change of electoral law is to find the most suitable system to accommodate every political interest. The 2019 concurrent election was held for the purpose of reducing the cost. Yet, it did more harm than good in an unexpected way. Over 500 polling station workers died due to extreme fatigue [33], and this shall be a strong justification for Indonesia to not having a concurrent election in the future.

The juridical authority endowed to Bawaslu in deciding the matters relating to electoral process has raised a new problem. This will definitely be subjected to evaluation particularly in determining the position of Bawaslu and its relation to KPU. While the final decision rests on the members of the parliament, recommendations from the civil society—particularly academicians and election observation NGOs—are influential in improving Indonesian electoral system in the future. Respondents from both sides of the camps (government and civil society) gave a negative signal on the role of Bawaslu. They see Bawaslu as unnecessary or unneeded in Indonesian election in the future. Zimbabwe had done it before, by relinquishing the role of electoral monitoring to the civil society. In the case of Indonesia, Mata Massa and Kawal Pemilu along with other civil society organisations have proved the effectiveness of increasing the public participation in electoral monitoring.

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