

# The Indonesian Update

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



## Main Report:

Hijab Politics and Electoral Dissemination within the Framework of the General Election Commission Regulation No. 15/2023.

## The Economics

- The Role of Non-Tariff Barriers Policy on Indonesia's Trade Flows ■
- The Polemics over Current Generation Having Property ■

## Law

- Military Intimidation: the Obstruction of Justice? ■
- The Comparative Study of Age Requirement for Presidential and Vice Presidential Candidates ■

## Politics

- Preventing the Practice of Money Politics in the 2024 Elections ■

## Social

- Measuring the Freedom of Speech Of the Civil Society After 25 Years of Reform ■
- A Look at the New Student Admission System in Jokowi's Leadership Era ■

# CONTENTS

---

FOREWORD .....	1
<b>MAIN REPORT</b>	
Hijab Politics and Electoral Dissemination within the Framework of the General Election Commission Regulation No. 15/2023. .	3
<b>THE ECONOMICS</b>	
The Role of Non-Tariff Barriers Policy on Indonesia's Trade Flows	8
The Polemics over Current Generation Having Property .....	11
<b>LAW</b>	
Military Intimidation: the Obstruction of Justice?.....	15
The Comparative Study of Age Requirement for Presidential and Vice Presidential Candidates.....	20
<b>POLITICS</b>	
Preventing the Practice of Money Politics in the 2024 Elections	25
<b>SOCIAL</b>	
Measuring the Freedom of Speech Of the Civil Society After 25 Years of Reform .....	29
A Look at the New Student Admission System in Jokowi's Leadership Era .....	33
<b>INSTITUTIONAL PROFILE</b> .....	38
<b>RESEARCH PROGRAMS, SURVEY AND EVALUATION</b>	41

<b>PUBLIC DISCUSSION .....</b>	<b>44</b>
<b>TRAINING &amp; WORKING GROUP FACILITATION ...</b>	<b>45</b>

---

---

**Contributors :**

Arfianto Purbolaksono, Christina Clarissa Intania, Dewi Rahmawati Nur Aulia,  
Felia Primaresti, Nuri Resti Chayyani. Editor: Awan Wibowo Laksono Poesoro

---

---

# FOREWORD

---

The August 2023 edition of the Indonesian Update presents a main report regarding phenomenon of hijab politics and the information dissemination of elections carried out by female candidates. It is important to push for a revision of PKPU to promote the clarity of rules and legal certainty in information dissemination and campaign arrangements ahead of the upcoming 2024 General Elections and Pilkada.

In the economic field, the Indonesian Update raises the issue of non-tariff barriers that have a crucial role in growing international trade; for example, in exports and imports. The lower the non-tariff barriers, the more positive impact it will have on net exports. This will increase the number of more competitive products. Furthermore, we also discuss the millennial age group, which is often considered as the generation that is difficult to own property; for example, in terms of land and housing ownerships. The government needs to increase the protection of property rights to build a healthy investment climate, thus encouraging a sustainable economy.

In the legal field, the Indonesian Update touches on the polemics over the intimidation by members of the Indonesian National Armed Forces (TNI) in legal cases in Indonesia. In order to create a state with rule of law principles, the law and its enforcement must apply to everyone, regardless of their status in the society. Next, we also discuss a comparison of the age settings for presidential and vice presidential candidates. It is important to define clear criteria for presidential and vice-presidential candidates in the Election Law and other political-related regulations. Because one's intelligence, thinking, and political capability cannot be determined by age alone.

In the political field, the Indonesian Update raises the impact of the widespread practice of money politics, which will encourage an increase in political corruption practices committed by public officials generated by political parties through elections. Therefore, in July 2023, the Corruption Eradication Commission (KPK) also launched a campaign with the slogan "Hajar Serangan Fajar".

In the social field, the Indonesian Update raises the issue that silencing freedom of opinion and expression in civil society can be a serious obstacle to the course of development. In addition, the uncertain political situation and the absence

of legal certainty can result in a decrease in the world's level of trust in the running government, including closing foreign investment opportunities.

Furthermore, we also discuss education equity and the provision of quality education services, which are still a challenge from time to time. The emergence of alternative educational institutions and educational institutions managed by the private sector needs to be supported to contribute to the efforts to promote educational equity and improve the quality of education in Indonesia.

It is hoped that the monthly publication of the Indonesian Update with current themes will help policy makers in government and business institutions – as well as academics, think tanks and elements of civil society, both domestic and foreign, to obtain actual information and contextual analysis on economic conditions, political, social, and legal in Indonesia, as well as an understanding of public policy in Indonesia.

**Happy reading.**

# Hijab Politics and Electoral Dissemination within the Framework of the General Election Commission Regulation No. 15/2023.

---

## Introduction

Indonesia as a country with the majority of its people adhering to Islamic teachings is no stranger to headscarf. In this case, many research results show that in general there are two major motivations that encourage women in Indonesia to wear the headscarf. The first motivation is theological motivation. The second one is the motivation to express aesthetics. Theological motivation refers to the reasons for a woman to wear the headscarf based on her belief in a particular teaching, in this case the teachings of Islam (Yohana, 2007). Meanwhile, motivation related to aesthetic expression is defined as the desire of women to wear the headscarf because many women then judge that the headscarf is a fashion item that can indicate a social class, as well as expressing other social identities.

This has an impact on how the headscarf is interpreted not only as a religious symbol but as other symbols, including political symbols. This can then be seen through the phenomenon of women's legislative candidacy, in which many female legislative candidates suddenly use the headscarf in their banners and candidacy photos.

This kind of phenomenon occurs because visual symbolization plays an important role in the context of political communication (Schill, 2012). In this case, everything related to appearance, such as clothes and the way people use these clothes, will be important in the campaign process (Rosenberg et al., 1991). In addition, another study from Ni'mah (2021) in his research results explains that most women in Indonesia are involved in political imagery through their choice of hijab style. This has made many female legislative candidates emphasize the importance of their appearance and style in wearing the hijab, because they are aware of what the hijab style they use means for voters. Hijab then became a very effective medium for campaigning for female candidates.

Uniquely, there are three general categorizations in wearing the headscarf, which at the same time also show the preferences and

political affiliations of female candidates. First, the Syar'i headscarf, where the use of the word Syar'i itself refers to a law in Islamic teachings called sharia law. The group of Muslim women who use the hijab preference with this model say that by wearing the Syar'i headscarf it means they are more obedient and submissive to God compared to other women with different hijab styles.

We can see the users of the syar'i hijab in a political context through how female Prosperous Justice Party (PKS) cadres choose their hijab style. In an interview by Ni'mah (2021), one of the respondents named Siti Atmiatun from PKS said that one of the reasons she wore the Syar'i headscarf was not for theological reasons related to certain beliefs, but rather the projection of an image related to with the ideological orientation of their party. In this case, PKS is a party with a strong Islamic ideology with puritan tendencies. According to Siti's explanation, PKS is the answer to questions that people often ask regarding the choice of hijab model. This was later confirmed through other findings, which explained that PKS also sets sharia compliance standards for its cadres, including in terms of how they wear clothes (Machmudi, 2008).

According to Siti Atmiatun, legally-formally, PKS does not make certain standards regarding how to wear the headscarf. However, most PKS cadres know what the "correct" criteria are for wearing the headscarf based on the religious studies they often participate in.

In contrast to PKS and their hijab style, which is closely related to sharia law, The National Awakening Party (PKB), which is affiliated to the Nahdatul Ulama organization or NU, promotes a more moderate model of the hijab style. Moderate here means that the headscarf can be used in a way that better adapts to the existing cultural context, in this case the culture in Indonesia. They usually call this understanding the Nusantara Islam, in which their teachings combine Islamic traditions and teachings with local Indonesian values and practices, by placing NU and PKB as a defender of tolerance and pluralism (Fearly, 2018 ; Hosen, 2016; Munfaridah, 2017).

Siti Mukaromah, a legislative candidate in the 2019 elections with a very strong NU background, explained that she expressed a moderate Islamic point of view through her choice of hijab style that she showed in many banners, posters and sticker photos, and also through her live appearances during the campaign period. She consistently uses the hijab which is made of a square sheet of cloth folded symmetrically to form a triangle, then secured under the chin

with a pin, with the two ends of the scarf pushed back over the shoulders.

According to her, this hijab model is not only comfortable to wear, but also very much in line with the values she believes in as a moderate Muslim. The headscarf covers her private parts; that is, her entire body except for her face and palms, but it also doesn't take away her Indonesianness. For her, the headscarf is a symbol of Islamic identity that she thinks is important, especially because she is an NU activist, a graduate of Islamic boarding schools, and a PKB cadre. He also said that actually the idea of wearing the headscarf that was designed to express Nusantara Islam also risked being rejected by voters. However, she is not bothered by this because according to her, elections are an ideological contest in which the communities and groups of people she targets have the same characteristics and are also ideologically affiliated to both NU and PKB.

The third hijab style is a nationalist style for hijab users for instrumental purposes. This hijab model is usually worn by the cadres of nationalist political parties, such as the Indonesian Democratic Party of Struggle (PDIP), Democratic National Party (NasDem), and others. Through the results of Ni'mah's research (2021), in an interview, it was discovered that one of her informants who came from PDIP said that her party's views separate political ideas from religion, so wearing the hijab is purely a matter of personal choice.

However, the results of the research show that by wearing the headscarf and becoming a cadre of a nationalist party, it will have many advantages and make the cadres look more prominent compared to other cadres, especially those who are Christians. This is the case considering that Indonesia is a country with a majority Muslim population (Ni'mah, 2021).

### **The Phenomenon of Hijab Candidates in the Framework of General Election Commission Regulations**

Many polemics have occurred since the General Election Commission (KPU) passed the General Election Commission Regulation (PKPU) Number 15/2023 concerning the General Election Campaign. This happens because there is a lack of clarity in the definition between campaign and information dissemination in the regulation. What was later highlighted by the regulation was the fact that both formally and materially, the PKPU had many defects. For example, how the KPU cannot define Chapter 10 on Information Dissemination and Political Education. In Article 79 Paragraphs 1 and 2; for example, it is explained that political parties participating in elections can carry out information dissemination



and political education within the party before the campaign period begins. However, if this is only done within the internal party, then why is there a need for a clause in Paragraph 2 that states that political information dissemination and education is carried out by the method of placing political party flags.

In addition, in Article 4; for example, it is explained that in carrying out information dissemination, election participants are prohibited from disclosing their self-image, including the serial number and photo,, as well as special features that show the characteristics of the political parties participating in the election. Which then becomes the question, are the party flags and photos not something that shows the characteristics of the political parties participating in the elections?

In terms of broader information dissemination, this can then have an impact on the way “information dissemination” is carried out by legislative candidates, especially those who wear the headscarf. According to Ni'mah's research findings (2021), the hijab was a fashion item that had a major influence on the perceptions of certain Islamic groups in selecting candidates. The same thing then also happens to the candidates concerned in choosing their hijab style, with respect to the target group they want to target.

The implication of this phenomenon is that legislative candidates can campaign illegally under the pretext of outreach. They can easily carry out this illegal campaign by using the headscarf according to the characteristics and ideology of their political party. This is important considering that in the results of Ni'mah's research (2021), it was stated that most constituents of certain parties already recognized the semiotic characteristics of the party cadres they wanted to support. This argument is proven by ;for example, PKS sympathizers who have hopes for party cadres to wear the Syar'i headscarf, or PKB sympathizers who want party cadres to place more emphasis on moderate Islamic teachings. This hope is then realized by the cadres through the choice of the hijab model they wear.

It has become worse, as the embodiment of the choice of hijab model they wear can be displayed through billboards or posters during the “information dissemination” period. This phenomenon is again exacerbated due to the ambiguity of the legal products owned by the KPU. In addition, the Election Supervisory Body (Bawaslu) also cannot provide sanctions for violations because again, these matters are not specifically regulated in the PKPU.

## Recommendations

According to the analysis above, it can be concluded that the ambiguity of regulations can have an impact on many things. In this case, the General Election Commission needs to revise the PKPU Campaign before the campaign period begins, for example, related to a clear definition between information dissemination and campaigns; prohibitions related to outreach and campaigns; advice on outreach materials and campaigns; information dissemination and campaign periods, as well as clear sanctions in enforcing the rules. Similar adjustments also need to be considered in managing political campaigns on social media. The impetus for changes to PKPU. This campaign is also part of the wider public's expectations for a substantive and quality 2024 elections, not just playing on campaign jargon and symbols so that the election results are also of high quality, relevant and meaningful.

In addition, political parties, specifically in the area of winning elections, should start changing their approach in campaigning, for example, not only relying on symbols and affiliations to the party carrying the candidates, but also prioritizing the provision of candidates so that voters get a choice of quality candidates who can fight through clear ideas and programs, not mere identities and symbols. The ability of candidates and the meritocracy system, including an understanding of the contested office functions, especially from the aspects of democracy, human rights, gender awareness, and good governance, as well as the vision and mission, as well as political party programs, should be the main training material compared to limited symbolic approach in providing informative and educative political campaigns to voters.

Furthermore, election organizers, both the KPU and Bawaslu, especially in relation to public participation and implementation, as well as tackling election violations, need to promote cooperation with civil society activists for democracy, elections and others, in the context of election information dissemination and voter education. This is important to encourage an election administration ecosystem that is healthy and has integrity, as well as being inclusive and participatory, both from the point of view of election administrators, election participants, and the society in general.

**- Felia Primaresti -**

*Many polemics have occurred since the General Election Commission (KPU) passed the General Election Commission Regulation (PKPU) Number 15/2023 concerning the General Election Campaign. This happens because of the unclear definition between campaign and socialization in the regulation. One related phenomenon that is interesting to examine is the politics of the hijab and the socialization of elections carried out by female candidates. It is important to push for a revision of PKPU to promote clarity of rules and legal certainty in organizing socialization and campaigning ahead of the 2024 Simultaneous Elections and Local*

## The Role of Non-Tariff Barriers Policy on Indonesia's Trade Flows

---

As a country that adheres to an open economic system, Indonesia's international trade has become one aspect of national calculations in measuring economic growth. In Q1 2023, net exports resulting from international trade transactions have shown a contribution of 2.10 percent from 5.03 percent of economic growth in the first quarter of 2023 (BPS, 2023). This figure is the second largest contribution after household consumption, which is the highest source of growth, which is 2.44 percent. This achievement is also inseparable from export performance at the beginning of 2023.

The Fiscal Policy Agency of the Ministry of Finance has recorded Indonesia's export performance in January 2023, which shows quite good growth. There was an increase in export performance by 16.37 percent year-on-year or valued at USD 22.31 billion. However, if compared with exports in December 2022, this figure decreased by 6.36 percent. The largest decrease in non-oil and gas exports in January 2023 compared to December 2022 occurred in mineral fuel commodities of USD 379.7 million (8.19 percent), while the largest increase occurred in precious metals and jewelry/gems of USD 257.9 million (46.54 percent).

In contrast, the development of imports has decreased at the beginning of 2023. Indonesia's import value in January 2023 reached USD 18.44 billion, down 7.15 percent compared to December 2022 or up 1.27 percent compared to January 2022. Oil and gas imports in January 2023 were valued at USD 2.91 billion, down 9.21 percent compared to December 2022 or up 30.36 percent compared to January 2022. Non-oil and gas imports in January 2023 were valued at USD 15.54 billion, down 6.75 percent compared to December 2022 or down 2.78 percent compared to January 2022 (BPS, 2023).

Fluctuations in the development of international trade indicated through the amount of exports and imports are influenced by several policies, such as tariff and non-tariff policies. These are forms of restrictions imposed by the state in international trade. Tariff policy is a systematic arrangement of duties levied on goods and services that cross national borders (Priyatno et. al, 2022). The form of tariff policy is paying taxes to increase the cost of importing certain goods.

The imposition of tariffs has an impact on domestic consumers; for example, reducing demand for imported goods because the price of goods becomes relatively expensive. As for the impact on exporters, tariffs make products less competitive in the destination country's market. In addition, imposing tariffs is an effort to protect domestic producers, including emerging industries, and can contribute to a reduction in fraud due to unfair practices of foreign producers involved in dumping.

Unlike tariff barriers, non-tariff barriers have a wider scope. If tariffs require importers to pay a certain nominal when entering the territory of a country, non-tariffs talk a lot about the standard rules of a product (Core Indonesia, 2018). Some types of Non-tariff barriers include Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT). Summarized by definition, tariffs are import duties imposed on imported goods, while non-tariff barriers are defined as trade restriction regulations other than tariffs aimed at protecting a country's interests in international trade. Among the two, the most impeding in international trade that has an impact on export-import is non-tariff barriers.

Non-tariff barriers (NTB) in international business are actions by a country that are covertly aimed at blocking the entry of imported goods through various policies that are not import duty tariffs without involving the imposition of tariffs or import duties. NTB is called hidden or invisible, because of its non-transparent nature, it makes it difficult to enter goods into countries that carry out NTB. NTB's actions taken by almost all countries are protectionistic and based more on considerations of the interests of protecting domestic industries. High inflation, economic weakness, and falling exchange rates are sources of protectionism. NTB containment measures have not shown concrete results and this is an unfavorable development for most countries, especially the third world (Lumbatoruan, 1992).

If we look back at Indonesia's export data, which contracted at the beginning of 2023, the implementation of NTB in general needs to be reviewed. This is important because it is related to the ongoing global economic weakness. This can be seen from the Purchasing Manager's Index (PMI) in manufacturing in the majority of G20 and ASEAN-6 countries that experienced contraction. One of the impacts of NTB on exports has been studied by Sari, Hakim, and Anggaraeni (2014) in terms of crude palm oil commodities. The study stated that trade barriers such as TBT hampered Indonesia's crude palm oil (CPO) exports.

*Non-tariff barriers have a crucial role to play in growing international trade; for example, in exports and imports. The smaller the non-tariff barriers, the more positive impact on net exports, increase the number of competitive products.*

Another study was conducted by the Center for Indonesian Policy Studies (CIPS) (2018) on the impact of non-tariff barriers in terms of food. Non-tariff barriers increase the cost of implementation, procurement of raw materials, and adaptation processes to enter the food and beverage manufacturing business, as well as limit companies' access to global markets, and reduce productivity and competitiveness. Thus, non-tariff barriers also interfere with food security.

### **Policy Recommendations**

Tariff and non-tariff barriers need to be reduced so that Indonesia's trade traffic is wider and improves the quality of domestic products to be able to compete at the international level. Because non-tariff barriers are not very visible, a more detailed assessment is needed to measure how much they affect each export commodity, especially commodities related to environmental issues.

The Coordinating Ministry for Economic Affairs together with the World Bank need to continue to update Indonesia's Non-Tariff Measures (NTMs) Database. This is important as a reference source for data and equalization of perceptions related to non-tariff barrier policies in Indonesia.

Economic weakness in export countries due to global uncertainty has a contractionary effect on the domestic trade balance, especially on net exports. Thus, considering that exports are the highest contributor to Gross Domestic Product (GDP) after household consumption, the Ministry of Finance needs to prepare a mature and quality state budget (APBN) in order to maintain economic growth above 5 percent even though the economy in export destination countries is declining.

**- Nuri Resti Chayyani -**

## The Polemics over Current Generation Having Property

---

Today, the millennial age group is often considered as a generation that is difficult to own property, for example, in land ownership and occupancy. This is due to the price level that soars from year to year in accordance with its locations. The difficulty of owning a residence tends to be felt by millennial age residents who live in urban areas.

According to Strauss & Howe (2000), Generation Y, or Millennials, is a generation that has a birth year range of around 1982 to 2002. If calculated until 2023, the generation is around 20-40 years old. At that age, it is also a time when people are starting their home life and starting to think of a comfortable place to live for their survival. In addition, owning a house is one of the property ownership rights. Property ownership rights are legal rights granted to individuals or legal entities to own, use, and control certain property or assets.

Widely reported by digital media, the Minister of State-Owned Enterprises (BUMN), Erick Thohir, said that there were 81 million young people who did not yet own homes. The statement was conveyed while attending the Bank BTN Public Housing Credit (KPR) Simultaneous Mass Akad event at Puri Delta Tigaraksa Housing, Tangerang (Kompas, 8/8/2023). According to him, the young people do not have housing because most of their income is intended for lifestyle fulfillment, so housing is not a top priority.

If examined further, there are several factors why the millennial generation does not have housing other than the priority of their income which is intended for lifestyle. These factors include high house prices, debt burden, job instability, financial uncertainty, strict credit requirements, and an increase in the cost of living relative to income.

Bank Indonesia data showed that in the 18 cities surveyed, there were 5 cities with the highest house price growth recorded in the second quarter of 2022. Yogyakarta City ranks highest with house price growth of 3.85 percent per year. The other four cities were

Manado, Samarinda, Surabaya, and Pontianak (BI, 18/5/2022). Although according to the data, the prices experienced a slowdown, the rate of house price growth was quite burdensome for the current generation financially.

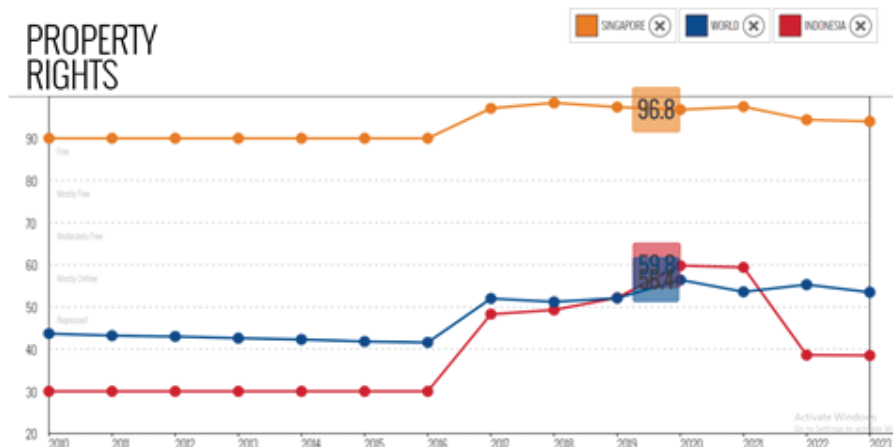
Wijaya & Anastasia (2021) in their journal article entitled “Millennial Generation’s Considerations on Home Ownership and Financial Constraints” provides evidence that the factors considered by the Millennial Generation are family and external factors, finances and environment, physical condition of the residence, and internal tastes. Meanwhile, the main financial constraint in the millennial generation is that there is no financial support from the closest person, so they are hesitant to buy a house.

In addition, there is a gap in homeownership with the generation before millennials. The elders are considered to have taken a large profit by selling the property at a price much higher than the purchase price. Hoolachan & McKee (2019) in their research on the intra-generational gap between Baby Boomers vs Millennials asserts that young people have validated the existence of a property ownership gap. Young people are not annoyed with their elders for taking away their right to own a home, but they tend to blame government policies for making regulations that allow that to happen.

In Indonesia, there are several regulations and policies that have been made to make it easier for individuals and businesses to own property. Some of these regulations include Property Rights regulated in Law Number 5/1960 concerning Basic Regulations on Agrarian Principles (Basic Agrarian Law); the Certificate of Property Rights (SHM) and Certificate of Building Use Rights (SHGB) which provide legal certainty related to property ownership; Development and Land Use Permits which include building permits (IMB) to build building structures on land, and so on.

Although regulations have been made to facilitate property ownership, there are still various challenges and improvements that can be made to ensure better legal certainty and easier access for property ownership. The policies that have been prepared by the Indonesian government regarding property ownership rights have not been maximized. This can be identified through Indonesia’s Economic Freedom Index in 2023 for property rights has decreased, as mentioned in Chart 1.

**Graph 1. Indonesia, Singapore and the World Economic Freedom Index 2023 for Property Rights**



Sumber: Heritage Foundation, 2023.

In Graph 1, it can be seen that Indonesia's Economic Freedom Index in 2023 in the property rights variable is at 39 points. That is below the global average of 50 points. Even compared to its neighboring country, Singapore, there is a far gap related to property rights. This reinforces that the current policy in the last 3 years has reduced the freedom of property rights in Indonesia.

### Policy Recommendations

Property ownership rights are important rights for every individual, including millennials. Property rights form the foundation of a well-functioning economic system because it provides incentives to individuals to invest time, effort, and resources in property development and management.

The government needs to improve property rights protection to build a healthy investment climate, thus encouraging a sustainable economy. Strong property ownership rights, protected by law, and supporting sustainable economic principles, are important cornerstones for sustainable investment and the economy as a whole. For example, with legal certainty, intergenerational cooperation, and job growth (Lauren, 2023). There are several policy recommendations that can be carried out by relevant agencies in improving property ownership rights.



The Central Government together with the Ministry of Agrarian Affairs have the authority to issue laws, regulations, and national policies related to property ownership rights. They also have a responsibility to ensure that applicable laws protect property ownership rights. For example, reviewing regulations by revising and clarifying property ownership laws.

Furthermore, to overcome the challenge of high property prices, namely by providing tax incentives from the Ministry of Finance to property owners who have a track record of good legal compliance. This is important as an appreciation in assisting law enforcement to deal with violations of property ownership rights.

The efforts to improve the protection of property rights require commitment from the government, the private sector, and the community. By fostering an environment that respects and protects property ownership rights, a country can create a more attractive investment climate and support sustainable economic growth. Furthermore, sustainable economic growth does not only focus on economic growth, but also considers the long-term impact on the society and the environment.

**- Nuri Resti Chayyani -**

*The current generation such as the millennial age group is often considered as a generation that is difficult to own property; for example, in land ownership or occupancy. The government needs to improve property rights protection to build a healthy investment climate, thus encouraging a sustainable economy.*

## **Military Intimidation: the Obstruction of Justice?**

---

The acts of intimidation done by members of the Indonesian Armed Forces (*Tentara Nasional Indonesia/TNI*) by visiting the police station (like in Medan) has been done 4 (four) times in 2023 (Martiar, 2023). During these intimidation incidents, they brought 10 to up to 100 of their personnel to the police station, creating intimidation in the police station (Selviany, 2023). On their latest “visit” on 5 August 2023 (Briantika, 2023), Major Dedi Hasibuan came as a legal counsel with several TNI members to coordinate on the detainment of his family member (initial ARH) accused of land statement letter forgery (Martiar, 2023). This case involved signature forgery in land sales and purchases in Percut Seituan (Selviany, 2023). Police officers detained AHR, who was accused of being involved as a land mafia after investigating 3 (three) citizen’s reports. Major Dedi demanded the release of ARH from detainment at Polrestabas in Medan (Selviany, 2023). According to the statement made by *Kabid Humas Polda Sumut Kombes Hadi Wahyudi*, Major Dedi’s visit occurred due to a personal misunderstanding, not due to conflict between the involved institutions (Ramadhan, 2023).

This kind of intimidation had also happened in another region before. In Kupang, East Nusa Tenggara on April 2023, TNI members clashed with police officers at Oepi Sports Arena Kupang after a final futsal match. This led to a destroyed police car and a collapsed police Eid security post (CNN Indonesia, 2023). This incident was caused by a misunderstanding between both members of the institutions during the match (Bria, 2023). Another incident had also happened in Jeneponto, South Sulawesi on April 2023, which started when 2 (two) TNI members clashed with 8-10 (eight to ten) police officers at a restaurant. A day after that, the Jeneponto Area Police was attacked by approximately 100 (one hundred) unknown people. Some people conspired that this attack was caused by the clash of TNI members and police officers the day before. However, it was not proven yet (Saputra, 2023).

According to Dimas Bagus Arya Saputra, the *Koordinator Komisi untuk Orang Hilang dan Korban Tindak Kekerasan* (Kontras), Major Dedi's visit to *Polrestabes* in Medan was not an effort of coordination but a form of intimidation that interfered with law enforcement. This is a part of obstruction of justice (Martiar, 2023). According to the 8 August 2023 report, Panglima TNI *Laksamana Yudo Margo* stated that the intimidation done by Major Dedi Hasibuan was a violation. *Laksamana Yudo* has asked the *Pusat Polisi Militer TNI* to follow up on Major Dedi's visit to *Polrestabes* in Medan incident (Haryadi, 2023). Director of *Imparsial*, Gufron Marbruri, demanded that *Puspom TNI* take action on this violation since this was a form of intervention on the police's authority. Irvan Saputra, the Director of *Lembaga Bantuan Hukum Medan*, also mentioned that this was a breach of authority done by TNI (Muhid, 2023).

### **The Obstruction of Justice as Regulated in Indonesia**

According to John S. Siffert and Kathryn E. Malizia (2014), the obstruction of justice is defined as “the crime of interfering with the orderly administration of the law”; for example, in the form of action that interferes with the current conduct of government and does not need to be done using force (Siffert & Malizia, 2014). This includes intimidation, lying when making a statement, bribery, and alteration or damage to evidence (Siffert & Malizia, 2014). According to Johan Dwi Juniarto in their paper (2019), the action of obstruction of justice intends to “hinder legal process” or “criminal actions. This will hinder the legal process” (Juniarto, 2019, p. 342).

According to Andrea Kendall and Kimberly Cuff (2008), 3 (three) elements must be completed for an action to be classified as an obstruction of justice: obstruction occurred must be related to a pending judicial proceeding; the person accused of doing obstruction must know about the proceeding; and the person accused of doing obstruction must have acted “corruptly” with the intention to interfere or obstruct the on-going justice process. The person accused of obstruction does not have to be found guilty. Unsuccessful efforts can be punished if they aim to do it (Siffert & Malizia, 2014).

In Indonesia, the provisions on obstruction of justice are regulated in Article 221 of the Penal Code (*Kitab Undang-Undang Hukum Pidana/KUHP*) and Article 21 of Law No. 31/1999 on Corruption Eradication. In this case, Article 221 (1) par. 2 of *KUHP* relates more since this case does not involve a special crime of corruption and fleeing. Article 221 (1) Paragraph 2 of the *KUHP* mentions that:

“ (1) By maximum imprisonment of nine months or a maximum fine of three hundred rupiahs shall be punished:

1. ...

2. Any person who after a crime has been committed, with intent to conceal it or to prevent or to obstruct its investigation or , destroys, removes, hides objects upon which or with which the crime has been committed or other traces of the crime, or withdraws them from the examination either by the officers of the justice or police or by other persons who by virtue of statutory provision are continuously or temporarily assigned police duties.”

According to that Article, it can be concluded that in order to be an obstruction of justice, there has to be: a. a person with intention; b. who conceals, prevents, or obstructs; c. an investigation or prosecution; and d. by destroying, removing, hiding objects upon which or with which the crime has been committed or other traces of the crime, or withdrawing them from the examination either by the officers of the justice or police or by other persons who by virtue of statutory provision are continuously or temporarily assigned police duties.

### **How the Incident of Intimidation Done by TNI Members is Classified as Obstruction of Justice**

The author will use both elements in accordance with Article 221 (1) par. 2 of KUHP and the one elaborated by Kendall and Cuff in this section. According to the case facts, Major Dedi was the one who had the intention to obstruct an investigation done by the police officers at the *Polrestabes* in Medan. The obstruction was done by coming to the police station to demand a detention adjournment of ARH during an on-going investigation by bringing several TNI members to create an intimidating atmosphere at the police station. Major Dedi's action fulfills all elements of Article 221 (1) Paragraph 2 of KUHP, and it can be concluded that Major Dedi has created an obstruction of justice in accordance with this Article.

Moreover, the role of Major Dedi as the legal counsel of ARH contradicts Article 3 of Law No. 18/2003 on Advocates (Advocates Law). Even though it is stated that Major Dedi had the permission from his superior to be ARH's legal counsel, however, it is stated in Article 3 (1) c of the Advocates Law that to be an advocate, a person should not bear the status of a civil servant or public offi-

cial. It is explained further in the Elucidation of the Advocate Law that a civil servant or public official includes State's Civil Servant (*Pegawai Negeri Sipil/PNS*), TNI members, and Indonesian Police Force members (*Kepolisian Negara Republik Indonesia/Polri*). Being a legal counsel is also not a part of TNI duty, which is to uphold the states's sovereignty, maintain the state's territorial integrity, and protect the state from external threats and disruptions in accordance with Article 7 (1) of Law No. 34 of 2004 on TNI (TNI Law). Therefore, not only had Major Dedi created an obstruction, he also acted outside his authority as a TNI member.

According to Kendall and Cuff's obstruction of justice elements, the obstruction was done during an on-going investigation of ARH by the police officers at the *Polrestabes* in Medan. Major Dedi knew this was an on-going investigation since he came and acted as his "legal counsel." As for the "corrupt" actions are reflected in Major Dedi being a "legal counsel", which is outside his authority and bringing other TNI personnel to create an intimidating atmosphere. Therefore, it can be concluded that this incident can be classified as an obstruction of justice according to Article 221 (1) par. 2 of KUHP and the elements mentioned by Kendall.

### **Recommendations**

According to the analysis provided in the previous chapter, it can be concluded that the action of intervention done by TNI members by intimidation is a form of obstruction of law. In this intervention, other than intimidating and violating provisions in KUHP, the involved TNI member had also abused his authority, which contradicted the TNI Law and Advocate Law. However, the sanction and further procedure on the intervention violation and abuse of authority by TNI regulated in Military Court Law has not been amended to adhere to the current TNI Law. The Amendment of Military Court Law has already been mandated by *Majelis Permusyawaratan Rakyat* Decree No. VI/MPR/2000, *Majelis Permusyawaratan Rakyat* Decree No. VII/MPR/2000, and the TNI Law. Other than needing harmonisation with the TNI Law, the amendment of Military Court Law is needed in order for TNI to comply with the public court. The sanctions in Military Court Law are also more lax for TNI members.

The Ministry of Defense shall propose the proposal on amending Military Court Law, considering that the government should understand TNI's needs more. The proposal shall be made based on consultation and consideration of related parties such as TNI, the

Commission I of the House of Representatives of the Republic of Indonesia, the Ministry of Law and Human Rights, legal experts, law enforcers, and civil society organizations whose concentration in the field of defense, law, democracy, and human rights. The amendment of Military Court Law hopefully may create a more accountable TNI. In order to achieve a state that upholds the principle of rule of law, the law and its enforcement must apply to everyone, regardless of their status in the society. With a clear legal basis and enforcement, in the long run, it is expected that a healthy and harmonious society, especially between the civilian and the military, can be achieved.

**- Christina Clarissa Intania -**

*In order to achieve a state that upholds the principle of rule of law, the law and its enforcement must apply to everyone, regardless of their status in the society.*

## The Comparative Study of Age Requirement for Presidential and Vice Presidential Candidates

---

Currently, Indonesia is being bombarded with debates to change the age requirements for presidential and vice presidential candidates ahead of the 2024 General Elections. Indonesia's electoral system is regulated in the 1945 Constitution of the Republic of Indonesia (1945 Constitution), where the age requirement is further regulated in Law Number 7/2017 on General Elections (Election Law) as mandated in Article 6 Paragraph (2) of the 1945 Constitution. Article 169 Letter q of the Election Law stipulates that presidential and vice presidential candidates must be at least 40 (forty) years old to participate in the presidential and vice presidential elections.

According to the Academic Paper of the Election Law, the proposed minimum age requirement is 35 (thirty-five) years old as previously regulated in Article 5 Letter o of Law Number 42/2008 concerning General Elections for President and Vice President (Kementerian Dalam Negeri, 2016). However, this provision was changed during the discussion period of the Special Committee (Pansus) until the enactment of the Election Law. This change was proposed by Amirul Tamim from the United Development Party (PPP) faction on the grounds that a minimum of 40 (forty) years was the ideal age for a leader, as a person was usually unstable below that age. This proposal was approved by the Minister of Domestic Affairs (Dewan Perwakilan Rakyat Indonesia, 2017).

The provision regarding the age of candidates for election is being tested at the Constitutional Court in 3 (three) different submissions. First, case number 29/PUU-XXI/2023 was filed by the Indonesian Solidarity Party (PSI), which requested the phrase "at least 40 (forty) years old" in Article 169 Letter q of the Election Law to be interpreted as "at least 35 (thirty-five) years old." Second, case number 51/PUU-XXI/2023 was filed by the Garuda Perubahan Indonesia Party (Garuda Party), which requested the phrase "at least 40 (forty) years old" in Article 169 Letter q of the Election Law to be interpreted as "at least 40 (forty) years old or experienced in the

field of government”. Third, case number 55/PUU-XXI/2023 was filed by Erman Safar, Pandu Kesuma Dewangsa, Emil Elestianto Dardak, et al. who requested the phrase “at least 40 (forty) years old” in Article 169 letter q of the Election Law to be interpreted as “at least 40 (forty) years old or has the experience as a State Organizer”.

In the dynamics of the petition, there was a lot of support and opposition from several academics. Titi Anggraini, a lecturer in Election Law at the Faculty of Law, University of Indonesia, supports this change because it accommodates the political participation of all groups and groups optimally by considering the demographics of the population under the age of 40 (forty) years, which is 56% in Indonesia and to provide opportunities for young people to work in the political sphere (Wardah, 2023). However, what Titi disagrees with is that age requirements are not a constitutional issue that requires judicial review by the Constitutional Court and is a legal policy choice of the legislator (Damarjati, 2023). Bivitri Susanti, an expert on Constitutional Law from the Indonesian Jentera College of Law, agrees that a person’s intelligence, thinking, and political capability cannot be determined by age (Wardah, 2023). However, Bivitri stated that the determination of the age requirement is the duty of the House of Representatives (DPR) and the government, not the Constitutional Court (Damarjati, 2023). This is supported by precedents in Constitutional Court Decisions Number 15/PUU-V/2007 and 58/PUU-XVII/2019, which state that the age of office is not a constitutional issue but the legislator’s authority.

Given this phenomenon, it is interesting to study other countries’ practices regarding minimum age requirements for presidential and vice presidential candidates based on their constitutions and electoral laws to serve as a reflection and consideration for the Indonesian government.

### **The Comparison of Minimum Age Requirement Practices for Presidential and Vice Presidential Candidates in Other Countries**

The following is a summary of countries that use a minimum age requirement of 25 (twenty-five), 30 (thirty), 35 (thirty-five), and 40 (forty) years old:



**Table 1. Comparison of Minimum Age Rules for Presidential and Vice Presidential Candidates in Other Countries**

<b>Minimum Age (years)</b>			
<b>25</b>	<b>30</b>	<b>35</b>	<b>40</b>
Nicaragua <b>( 1 country in total )</b>	Bolivia Colombia Costa Rika Dominica Republic Ecuador El Salvador Gambia Honduras Paraguay Venezuela  <b>( Total 10 Negara )</b>	Angola Brazil Chile Comoros Cyprus Liberia Malawi Maldives Meksiko Palau Panama United State of America Uruguay Zambia  <b>( Total 14 Negara )</b>	Benin Guatemala Indonesia Nigeria Philippines Sierra Leone Somalia South Sudan Turkey Turkeminstan Zimbabwe  <b>( Total 11 Negara )</b>

Source: Legislation of each country, processed, 2023.

According to Table 1, most countries apply the minimum age rule for presidential and vice presidential candidates of 35 years ( 14 countries). Some countries apply a minimum age of 40 years (11 countries). Some countries apply a minimum age of 30 years (10 countries). One country applies a minimum age of 25 (twenty five) years. There are 2 (two) countries where the information cannot be found in their national constitutions and laws; namely, Kenya and Seychelles. Table 1 also explains that 9 (nine) countries with a minimum age of presidential and vice presidential candidates of 30 (thirty) years are countries on the American continent and 1 (one) country is on the African continent. For countries with a minimum age of 35 (thirty-five) years, 5 (five) countries come from the African continent, 5 (five) countries come from the American continent, 1 (one) country from the Asian continent, and 1 (one) country comes from the Oceania region. Of the 11 (elven) countries with a minimum age of 40 (forty) years, 6 (six) countries from the African continent, 4 (four) countries from the Asian continent, and 1 (one) country from the American continent.

Nicaragua is the only country with a minimum age of 25 (twenty-five) years for presidential and vice presidential candidates in accordance with Article 147 of the 1987 Constitution of Nicaragua as amended in 2014. Nicaragua is located in the Central American region, which according to its constitution, is a democratic republic with a separation of legislative, executive, judicial and electoral powers. The minimum age of 25 (twenty-five) years in the Nicaraguan Constitution is intended to increase participation and representation in order to realize a democratic process. By reducing the minimum age, there will be greater opportunities for more people to run for president and vice president. The greater opportunity for more people makes the representation of more people, especially in terms of age.

One of the countries with minimum criteria of 30 (thirty) years with similar characteristics to Indonesia is Colombia. According to the 1991 Constitution of Colombia as amended in 2015, Colombia is a unitary democratic republic and applies a decentralized system in its government. Colombia also has a government integrity score of 41.4, close to Indonesia's score of 39.3 according to the Economic Freedom Index reported by The Heritage Foundation. Colombia's regulation of the minimum age of presidential and vice presidential candidates has stayed the same in its constitution since 1893. In 1893, the requirements for Colombian presidential candidates were the same as for senators; namely, a minimum of 30 (thirty) years. The application of Colombia's minimum age requirement cannot be found at this time.

For countries in the 35 (thirty-five) and 40 (forty) year-old categories, Angola and the Philippines have similar state systems and forms to Indonesia. According to its Constitution, Angola is a unitary democratic republic and applies a decentralized system in its government. Angola is also one of the countries that, along with Indonesia, is included in the Emerging Market and Developing Economies list according to the Global Economic Prospects Report for June 2023, as reported by the World Bank. However, there was no reason was found for choosing these ages in regulating the minimum age of presidential and vice-presidential candidates. Likewise, the Philippines, similar to Indonesia, is a unitary democratic republic and applies a decentralized system in its government. And it is even more similar since the Philippines is also a Southeast Asian country and part of the Association of Southeast Asian Nations. Its Constitution stipulates that the Philippines has an age requirement for presidential and vice presidential candidates aged 40 (forty) years.

This is the same arrangement as in Indonesia. However, the basic reason for choosing 40 (forty) as the minimum age requirement for the president and vice president was not found.

### **Recommendations**

According to this comparative study, 3 (three) out of 4 (four) countries from the selected minimum age group do not have a rationale for choosing the minimum age of presidential and vice presidential candidates as stipulated in their respective constitutions. So far, it can only be concluded that the minimum age requirements for presidential and vice presidential candidates follow as regulated in their constitutions. However, Nicaragua uses the basis of fulfilling participatory democracy in determining the age requirement and has chosen an age requirement that tends to be lower than the other countries to achieve this.

According to a study of practices in Indonesia, the determination of the minimum age provision in the Election Law is based on the reason of maturity and eligibility to become a leader and this reason has been accepted by members of the Parliament and the Government involved as decision-makers in the Election Law drafting meeting. Learning from practices in other countries, Indonesia can also consider the value of representation and participation in order to realize democracy in determining the minimum age of presidential and vice presidential candidates.

In the context of the ongoing issue of judicial review of the age requirements for presidential and vice-presidential candidates in Indonesia, such as the precedents that already exist in Constitutional Court Decisions Number 15/PUU-V/2007 and 58/PUU-XVII/2019, it can be concluded that the requirements regarding the minimum age of presidential and vice-presidential candidates are open legal policies that are changed in accordance with the authority of the legislators; namely, the DPR and the government, not the Constitutional Court. Therefore, to realize the desired changes in the minimum age provisions for presidential and vice presidential candidates, the Government must propose changes to the Election Law by involving the DPR and other related parties such as experts, practitioners, and community organizations engaged in elections. This procedure aims to comply with the existing precedents on the *open legal policy* regarding presidential and vice presidential candidates' age requirements.

**- Christina Clarissa Intania -**

*It is important to determine a clear criteria of presidential and vice presidential candidacy in Election Law and other political related regulations. However, a person's intelligence, thinking, and political capability cannot be determined by age*

## Preventing the Practice of Money Politics in the 2024 Elections

---

Ahead of the campaign and voting stages in the 2024 General Elections (Election), the public is again reminded of the threat of money politics. Coordinating Minister for Politics, Law and Security (Menko Polhukam) Mahfud MD revealed that money politics was still rampant in elections (kompas.com, 8/8/2023).

Mahfud even mentioned that there was money politics in the wholesale and retail forms. The wholesale form is through ‘botoh-botoh’ (meaning in Javanese the main supporters), through officials in the villages and in the sub-district, through officials at the KPU (General Election Commission). Meanwhile, in the retail form, prospective legislative candidates and politicians will launch “dawn attacks” against citizens or prospective voters. Mahfud also highlighted the existence of money politics within the KPU. Money politics even reaches the polling station (TPS) level (kompas.com, 8/8/2023).

Mahfud’s opinion is a sign that money politics still has a chance to occur in the 2024 elections. Therefore, in July 2023, the Corruption Eradication Commission (KPK) also launched a campaign with the slogan “Hajar Serangan Fajar”.

The slogan “Hajar Serangan Fajar” is the KPK’s response to the high spread of money politics during elections in Indonesia. According to the KPK, one of the root causes of corruption in the Indonesian political system is the practice of money politics. Therefore, the slogan “Hajar Serangan Fajar” is a form of educating the public about the dangers of money politics (antaranews, 14/7/2023).

“Serangan Fajar/ Dawn Attack” is a popular term for money politics. According to Article 515 and Article 523 Paragraphs 1–3 of Law Number 7/2017 concerning Elections and Article 187 A Paragraphs 1 and 2 of Law Number 10/2016 concerning Regional Head Elections (Pilkada), the forms of dawn attacks are not limited to money. However, they can also in the forms of basic food packages, credit vouchers, gasoline vouchers, or other forms of facilities that

can be converted to a monetary value outside of the provisions on campaign materials that are allowed in accordance with Article 33 Paragraphs 2 and 7 of the General Election Commission Regulation (PKPU) Number 15/2023 concerning the General Election Campaign.

In Article 33 Paragraph 2 PKPU Number 15/2023 regarding campaign materials that are allowed for election participants and are not included in the dawn attacks, it is explained in detail that the allowed materials include leaflets; brochures; pamphlet; posters; decals; clothes; headgears; drinking/eating utensils; calendars; name cards; pins; stationery; and/or other campaign attributes in accordance with statutory provisions.

As for Paragraph 7, it reads: each election campaign material as referred to in Paragraph 2 must have a maximum value of Rp. 100,000.00 (one hundred thousand rupiah) if converted into money; in accordance with the provisions of the laws and regulations governing the standard input costs; and/or whose price remains reasonable.

### **2019 Election Experience**

Reflecting on the experience of the 2019 Elections, the General Election Supervisory Body (Bawaslu) during the cooling-down period of the 2019 Elections (14 April - 16 April 2019), found 25 cases of money politics in 25 regencies/cities which were carried out by election participants and their campaign teams. These cases were spread across 13 provinces throughout Indonesia. The provinces with the most cases were West Java and North Sumatra with five cases each. The evidence of money politics that was found was of various types, ranging from cash, detergents, to groceries (Bawaslu, 16/4/2019).

Furthermore, from the public side, according to the results of a survey by the Indonesian Institute of Sciences (LIPI) in 2019, it was found that 40 percent of respondents received money from participants in the 2019 elections but did not consider continuing to vote for them. Meanwhile, another 37 percent of respondents admitted that they received money and considered the giver to be chosen (kompas.com, 29/08/2019).

In addition to surveys of the public, the influence of money politics in the 2019 election was also asked by LIPI to the leaders or the elite members of society who were the respondents. As a result, 83 per-

cent of respondents from this circle admitted that voters considered the money, goods or services from legislative candidates or political parties when voting. However, 17 percent stated that this was not considered (kompas.com, 29/08/2019).

In the survey, LIPI conducted two surveys of the public and elite members of the society. A public survey was conducted with 1,500 respondents (27 April to 5 May 2019). Meanwhile, a character survey was conducted on 119 figures from 5 cities through face-to-face interviews with data collection from 27 June to 8 August 2019 (kompas.com, 29/08/2019).

### **The Impact of Money Politics**

According to the explanations above, the impact of the widespread practice of money politics will encourage an increase in political corruption practices committed by public officials generated by political parties through elections. In fact, one of the functions of political parties is as a space for political recruitment. This function is related to leadership selection, both internal party leadership and broader leadership at the regional and national levels, such as nominating the President, members of the DPR/DPRD, Governors, Regents and Mayors.

On the other hand, the use of money in political campaigns is something important. This is because election participant money can spread ideas and communicate with their constituents (Ohman, 2016). However, the use of money by political parties and candidates must be disclosed and reported according to regulations.

This is done as part of the implementations of transparency to the public. Campaign finance transparency allows voters to make better decisions about the parties or candidates they will support (Nassmacher, 2003). Therefore, a joint effort is needed from election organizers and participants, as well as civil society to uphold transparency and accountability in the management of campaign funds, including in reporting campaign fund contributions.

### **Recommendations**

According to the explanation above, relevant efforts are needed to prevent the widespread spread of money politics in the 2024 Election. Some of these efforts are, first, demanding that the KPU be consistent; for example, to continue submitting Reports on Acceptance of Campaign Fund Contributions (LPSDK) to election participants.

Second, encouraging Bawaslu to strictly impose sanctions by coordinating with relevant state institutions if there are election participants who engage in money politics and violate the reporting of campaign funds. Third, demanding political parties to obey and immediately submit campaign finance reports to the KPU, as well as encouraging political parties to inform the public about their campaign finance reports; for example, through websites.

Fourth, the Corruption Eradication Commission together with the election organizers and civil society groups should conduct a campaign against money politics using effective information media. Apart from that, the role of civil society in conducting oversight related to money politics must also be opened up and supported, including by the KPU and Bawaslu.

Fifth, supporting the cooperation among the KPU, Bawaslu, KPK, the Indonesian National Police, and the Financial Transaction Analysis Reporting Center (PPATK) regarding the reporting of political party campaign funds. Thus, campaign finance reporting is an important indicator that must be encouraged, in order to create honest, fair and integrity elections without money politics.

**- Arfianto Purbolaksono -**

*The impact of the rampant practice of money politics will encourage an increase in political corruption practices by public officials generated by political parties through elections.*

## Measuring the Freedom of Speech Of the Civil Society After 25 Years of Reform

---

In a press conference on August 4, 2023, Rocky Gerung stated that saying 'stupid bastard' to President Joko Widodo loudly was a form of criticism of public officials. Rocky was asked to give a public lecture as a special guest at the consolidation of workers towards the Alliance of Action of One Million Workers (AASB) on August 10, 2023. At the meeting, he explained that the actions of the President who visited China (People's Republic of China), inviting China to invest in the construction of the National Capital City (IKN) and thinking of himself, were 'stupid bastards'. As a result, he apologized if his statement had caused disputes and prolonged polemics in society (Tempo, 4/8/2023).

Problems with freedom of speech, especially in criticizing the government, are not limited to Rocky Gerung. There are other examples of freedom of speech cases related to public policy and information, such as those experienced by Haris Azhar and Fatia Maulidiyanti, who have been criminalized by officials on charges of defamation.

In addition, a case of silencing freedom of speech over government policies also dragged a junior high school student (SFA) in Jambi. The student criticized the Jambi Mayor and PT Rimba Palma Sejahtera Lestari for violating Regional Regulation No. 4/2017 on Road Transportation. The various cases above explain that the practice of silencing criticism of government policies occurs, not only for activists but also for critical young people and the public.

### **Assessing the Practice of Freedom of Speech After 25 Years of Reform**

The freedom to express criticism both orally and in writing is a civil right that has been guaranteed by the 1945 law, especially in Article 28 E Paragraph 3. In addition, the elaboration of freedom of speech is also regulated in Law (UU) of the Republic of Indonesia Number 9 of 1998 concerning Freedom of Speech in Public.

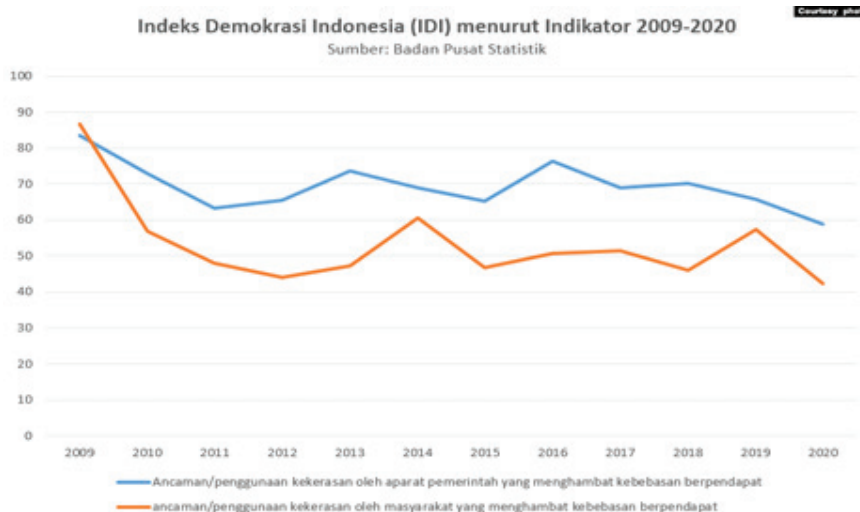


Theoretically, according to Frederick Schauer, a law professor from the University of Virginia, when the state accepts freedom of speech, every opinion that comes out by each individual tends not to be subject to the rule of law and the prevailing normative standards of society (Fed.soc.org, 15/8/2023). Criticism can even lead to personal insults of state officials. Criticism is a legitimate thing to do as long as the targeted individual is a public servant.

Freedom of expression in many countries is a universally protected human right. However, in practice, there are still many cases of silencing freedom of opinion and expression by civil society.

According to the Indonesian Democracy Index (IDI) compiled by the Central Statistics Agency (BPS) from 2009-2020, threats and violence by government officials that inhibit freedom of speech were almost always higher than threats or violence by the community. Although there was a decreasing trend in the index number, it still shows a figure above 50% (Voaindonesia.com, 9/5/2023).

**Figure 1: Indonesia Democracy Index (IDI)**



Source: VoA Indonesia, 2023.

Furthermore, according to Commission for the Disappeared and Victims of Violence (KontraS) researcher Hans Giovanny Yosua, there are three patterns of silencing expression in Indonesia. The first one is direct repression, where silencing occurs during protests in the field. The second is cyber attacks in the form of hacking and stigmatization of critics by buzzers. The stigmatization created by buzzers can be in the form of a counter-narrative that tries to influence the cyber community over the critics' personality and so on.

The third is the use of legal instruments to imprison expression, which is often referred to as criminalization or judicial harassment (Voaindonesia.com, 9/5/2023).

The silencing of opinion and expression against government policies does not only happen to human rights activists working at the grassroots. Similar cases also occur in the community, including community leaders who oppose government policies. Imprisonment through Article 45 paragraph (3) of Law (UU) Number 19/2016 concerning amendments to Law 11/2008 concerning Electronic Information and Transactions (ITE) seems to be the government's ammunition in silencing public criticism in every case related to policy narratives.

### **Measuring the Impact of Silencing on Civil Society.**

Although the Government has stated that it is open (and even eager) to receive public criticism, this does not necessarily mean that people can freely express their criticisms in various ways.

According to the data from Drone Emprit's analysis (indeksnews.com, 10/2/2021) related to public responses, regarding the Government asking to be criticized by the public, people do not believe it is safe to criticize the government. The data showed that 1,900 responders had a trust issue (low level of trust in the government). This data showed that civil society did not believe it was safe to criticize government policies.

The silencing of freedom of opinion and expression in civil society can be a serious obstacle to development. In addition, the uncertain political situation and the lack of legal certainty can lead to a decline in the level of global confidence in the current government, including the impact on closing opportunities for foreign investment.

On the other hand, reflecting on the various cases of silencing freedom of expression, it is important to re-evaluate the implementations of democracy and freedom of expression in Indonesia, especially after 25 years of Reformasi, and amidst the challenges of the lack of literacy of the Indonesian people on democracy itself.

To create a better democratic climate, *the political will* of the Government is key to the implementation of democratic life practices. *First*, the government and all its officials must consistently and seriously apply the principles of good governance, including transparen-

cy and accountability, in the policy process. Transparency of public information regarding government policies has also been regulated by Law number 14/2008 concerning Public Information Disclosure. Through this law, the Government has the right to explain every form of policy taken.

*Secondly*, the Government and its officials need to improve public communication and open up opportunities for broader and more meaningful public participation, and be inclusive of various stakeholders and civil society groups through various means; for example, through the application of Open Data and e-government principles, as well as the implementations of public communication forums that are conducive to facilitating collaboration and public participation in the policy process.

With the establishment of an equal communication forum, it is hoped that the relationship and communication between the government and various stakeholders can be well established and produce policies that are inclusive, participatory, responsive, and contextual. The better the public communication, the more intense the public involvement and public support for the policies produced, as well as collaboration and cooperation to solve common problems.

Furthermore, in a democratic system, freedom of expression, including criticism of the government and public policies, should be seen as constructive input that matures our democracy, not personal attacks on the government or other powerful parties.

**- Dewi Rahmawati Nur Aulia -**

*The silencing of freedom of opinion and expression in civil society can be a serious obstacle to development. In addition, the uncertain political situation, as well as the absence of legal certainty, can result in a decrease in the level of world confidence in the current government, including the closing of foreign investment opportunities.*

## A Look at the New Student Admission System in Jokowi's Leadership Era

---

The process of accepting new students (PPDB) has caused many problems, such as parents who manipulate their residence, outstanding students who have difficulty entering using the achievement path, and private schools that are increasingly less attractive so that they do not have students. President Joko Widodo (Jokowi) during his visit to Bengkulu after inaugurating the Bengkulu-Taba Penanjung toll road, said that problems in the field always existed in all cities, regencies, and provinces, but the most important thing that they resolved properly (Kompas, 20/7/2023).

The admission of students through the zoning system over the past few years (both under Minister Muhadjir Effendi and Nadiem Makarim) has been considered to pose several challenges. These challenges can be observed after the policy rules were enacted by Education Minister Muhadjir Effendi, who was then under President Jokowi's administration.

### **The Essence of Zoning System Implementations in New Student Admission**

Admission of new students (PPDB) through the zoning system has been in effect since 2016. Director General of Primary and Secondary Education Hamid Muhammad said that the zoning system had been implemented in stages since 2016, starting with the use of zoning in the implementation of the national exam. Then in 2017, the zoning system was applied for the first time in PPDB and was refined in 2018 through the Regulation of the Minister of Education and Culture (Permendikbud) Number 14/2018 concerning the Acceptance of New Learners in Kindergartens, Elementary Schools, Junior High Schools, Senior High Schools, Vocational High Schools, or Other Equivalent Forms. This regulation has replaced Permendikbud Number 17/2017 on PPDB.

Furthermore, Minister of Education and Culture (Mendikbud) Muhadjir Effendi at that time, said that the zoning policy was taken in response to the exclusivity in the education system that had existed

so far because of the quality selection of prospective students in PPDB. Selection in zoning is allowed only for placement (kemdikbud.go.id, 1/6/2018).

The implementations of the zoning system in Article 2 of Permendikbud Number 17/2017 on PPDB aim to ensure that PPDB runs objectively, accountably, transparently, and without discrimination to encourage increased access to education services. Therefore, the implementations of the zoning system in PPDB aim to make access to education services accessible to the entire community.

In addition, equalizing access to education according to the area of residence is the main point of the zoning system. Although the zoning system has this goal, the reality on the ground shows that there are still many parents of students who hope to obtain education in institutions that have good academic quality/accreditation.

This consideration is also shown, among others, by the results of a study conducted by the Policy Research Center of the Ministry of Education and Culture (2020), which shows that even though high-achieving children have close school access/distance, this is not necessarily a consideration for parents in placing their children in schools to get the best education.

### **The Challenges Faced by the Government in Equitable Access to Education**

The annual admission of new students (PPDB) challenges the government to strive for the community to be able to obtain proper education. Although the zoning system is considered to be able to reduce the inequality that occurs due to school accreditation and favoritism, it still creates obstacles related to the high enthusiasm of the community to place their children in the best educational institutions.

So far, the accreditation of educational institutions has become a benchmark for the quality of education provision. Accreditation attached to educational institutions is considered to be a necessity for the output of the quality of education of its students. However, the accreditation has actually caused negative sentiments between schools, both within one region and between regions. Accreditation is considered to provide a picture of inequality in the quality of education provision in areas that still lack development facilities.

The Government needs to consider the principle of justice in equalizing the quality of education. This is because each region still has

challenges in advancing the quality of its educational institutions. In some areas, students have difficulties in accessing the nearest schools. The lack of development in the regions can be an indication of the reasons why it is difficult for schools and other educational institutions to develop. Many people use this as an excuse to place their children in educational institutions located in the city. Thus, with many people placing their children in schools located in urban areas, the competition for seats in schools becomes increasingly fierce.

In addition, the challenges faced by the Government in organizing education are the limited physical development of public educational institutions that are not directly proportional to the increasing number of students and needs according to the level of education every year. According to Indonesian statistical reports, there are 399,376 school units in Indonesia in the 2022/2023 academic year, with 148,975 elementary school units as the most schools.

This can happen because of the limited land located in the regions. It is not uncommon for many schools to be suspended due to land acquisition problems. As happened with (SDN) Lengkong Karya I South Tangerang (Tangsel), which was closed by a concrete wall so that access to the school became narrow. The head of the local neighborhood said that the school access was blocked by the owner because the Tangsel City Government had not paid the land acquisition fee ([news.detik.com](https://news.detik.com), 19/7/23).

Meanwhile, the Government tends to ignore the emergence of alternative education institutions (such as integrated religious-based schools, *labschools*, *homeschooling*, and others). The emergence of alternative education institutions is considered to be able to provide education options that have the same good quality as those that have existed so far (even better).

Although alternative education institutions have developed, the Government has not provided regulations that are equivalent to the implementation of public education. The situation has made the implementations of activities in alternative education institutions so far only rely on the Home Community guidebook as an Equivalency Education Unit issued by the Directorate of Out-of-School Education of the Ministry of National Education.

The Government cannot ignore the presence of alternative education institutions that exist today. The presence of alternative education institutions can be considered as helping in the implementation of equitable education. Therefore, the government must encourage the participation of the community and all parties for active involvement in the implementation of education to educate the nation's life.

### **Government Efforts to Improve the Quality of the Education Delivery System**

The quality of human resources is realized only if the government is present and responds to the overall system and quality of education provision. In addition, the Government also needs to open opportunities and facilitate the participation of non-governmental parties, such as alternative educational institutions and educational institutions managed by the private sector to contribute to the efforts to equalize education and to provide quality education in Indonesia.

The zoning system in the implementation of education for students is still recognized as having weaknesses, especially in convincing the public to place all educational institutions as equal education providers. The importance of equalizing the status of education providers can be a solution, especially in equalizing access to public education by meeting clear and measurable minimum service standards in the context of education.

For this reason, the Government needs to provide legal certainty for the provision of education outside those provided by the state. Therefore, to implement an equitable education delivery system, the Government needs to strengthen and redesign the form of the system and the type of education delivery.

In the zoning system as the entrance to the education of new students, the Government needs to ensure that people who are in the zoning requirements area have the right to attend school in the nearest neighborhoods. However, the Government and the Ministry of Education and Culture (Kemendikbud) also need to open other access spaces to obtain educational institutions/schools.

The Government also needs to reform education provider institutions as an alternative equal choice. This can certainly be done with several innovations and reforms in the curriculum, teaching system, educational outputs/skills, facilities, and other supporting capacities for education delivery.

In addition, to support the education delivery system, the Government and all parties need to open space for cooperation in improving the quality of educators, such as capacity building and exchange of teaching staff.

**- Dewi Rahmawati Nur Aulia -**

*Education equity and the provision of quality education services remain a challenge from time to time. The emergence of alternative educational institutions and educational institutions managed by the private sector needs to be supported to contribute to the efforts to encourage equitable distribution of education and improve the quality of education in Indonesia.*



**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 that was established on 21 October 2004 by a group of young, dynamic activists and intellectuals. TII is an independent, non-partisan, non-profit institution, whose main funding stems from grants and contributions from foundations, companies, and individuals.

**TII** has the aim of becoming a main research center in Indonesia for public policy matters and has committed to giving contribution to the debates over public policies and to improving the quality of the planning and results of public policy by promoting good governance principles and public participation in the policy processes in Indonesia.

**TII**'s visions are public policies in Indonesia which highly uphold human rights and rule of law, as well as involve participation of various stakeholders and practice democratic good governance principles.

**TII**'s missions are to conduct reliable research that is independent and non-partisan and to channel the research to the policy-makers, the private sector, and academia in order to improve the quality of Indonesian policy-makers.

**TII** also assumes the role of disseminating ideas to the society so that they are well informed about the policies that will have a good impact on the people's lives. In other words, TII has a position to support the democratization process and the public policy reform, as it will be involved in the process.

The scope of the research and review on public policies undertaken by TII includes economic, social, political, and legal affairs. The main activities which have been conducted by **TII** in order to achieve our vision and mission, are: research, surveys, facilitation and advocacy through training and working groups, public discussions, public education, weekly editorial articles ("Wacana" or Discourses), Instagram Live Series and Space Twitter (Policy Talks and Initiative!), monthly analysis ("Update Indonesia" in Indonesian and "The

Indonesian Update” in English), mid-year policy analysis (“Policy Assessment”), annual policy analysis (“Indonesian Report”), and monthly discussion forum on policy issues (“The Indonesian Forum”).

**Contact Details :**

**The Indonesian Institute, Center for Public Policy Research**

Jl. HOS. Cokroaminoto No. 92,

Menteng, Jakarta Pusat - 10310

Ph. (021)315-8032

[contact@theindonesianinstitute.com](mailto:contact@theindonesianinstitute.com)

[www.theindonesianinstitute.com](http://www.theindonesianinstitute.com)

## RESEARCH ON ECONOMIC AFFAIRS

The economy tends to be used as an indicator of the success of the government as a policy-maker. Economy plays an important role as one of the fundamentals of national development. 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.

TII focus on economic issues, such as monetary policy and fiscal policy, as well as issues on sustainable development by using analysis which refer to economic freedom principles. Monetary issues will focus on the Indonesian Central Bank to maintain economic stability, both regarding inflation and exchange rate. Meanwhile, fiscal policy will focus on the discussions over the National Budget and infrastructure development both in the regions and in the cities. In relation to sustainable development, TII research is focusing on productivity, competitiveness, infrastructure development, and development gap. In addition, TII also upholds economic freedom principles in highlighting the importance of individual freedom and involvement of private sectors in increasing development and improving welfare in Indonesia.

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.**

## 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. This stipulation is also confirmed in Law No. 15 Year 2019 on the Amendment of Law No. 12 Year 2011 regarding the Formulation of Laws and Regulations.

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 both from academic and content aspects. Furthermore, academic paper also functions as an early tracking over possibilities of overlapping laws and regulations, so that revocation of local regulations or other related issues which can be caused by legal, economic, or political aspects in the future, can be minimized as soon as possible.

TII offers normative and legal research related to harmonization and synchronization of laws and regulations, especially in making academic papers, legal opinion on harmonization and synchronization of laws and regulations, and legislative drafting for the formulation of local regulations bill drafts or other laws and regulations. In addition, TII also offers openly research on other legal issues related to Constitutional Law and Public Administration, Human Rights, and Political Corruption.

## RESEARCH ON THE POLITICAL AFFAIRS

The enactment of Law No. 23 Year 2014 on the latest regulation on the Local Government, has created different relations between the Central Government and the Local Government. Entering the era of Bureaucracy Reform, specification of division of affairs of the Central Government and the Local Government has increasingly demanded the implementation of good governance principles. The government is demanded to be adaptive and responsive towards public aspiration and services. Therefore, public policy research become more important for both the Central Government and the Local Government to analyse context and current issues in the regions. The government must also consider various actors whether political actors or bureaucrats, as well as public's aspiration and other non-state actor in policy processes.

In order to respond those needs, TII research in political affairs offer policy assessment on various policies which were already applied or will be implemented. TII will look at socio-cultural, economy, legal, and political aspects in assessing public policies. Our research will be useful to assist government in formulating policies which are in line with context, priorities, and people's aspiration. TII also offers various breakthrough of transformative policies according to existing contexts in particular and Open Government principles' implementation in general, in order to increase public participation in policy processes, particularly in the era of the openness of public information.

Political Research Division of TII provide analysis and policy recommendations in order to generate strategic policy in the strengthening of democracy and the establishment of good governance both at the national and local levels. Political research forms are offered by TII **(1) Public Policy Analysis, (2) Media Monitoring, (3) Mapping & Positioning Research, (4) Need Assessment Research, (5) Survey Indicator.**

## 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. Social analysis is important to identify strategic issues which are developing and to make the right stakeholders' mapping to promote significant change in the context of development, public policy, and democracy in Indonesia.

The Social Research Division is present to offer strong and valid recommendations to produce strategic, relevant, efficient and effective, and impactful policies, in addressing to existing various issues. For example, issues related to education, health, population, environment, women, children, and elderly. 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.**

## PRE-ELECTION AND REGIONAL HEAD ELECTION

One of the activities carried out and offered by TII is a pre-election survey as well as a pre-election and regional head election. The reasons underlying the implementation of pre-election and regional head election surveys, namely: (1) A good election is a democratic process that can be arranged, calculated, and predicted in the resulting process; (2) Survey is one of the important and common discussions to measure, calculate, and predict how the process and results of the General Election and the Regional Head Election will take place, in accordance to the expectations of the candidates; (3) It is very important to win in the General Election and the Regional Head Election based on empirical, scientific, measurable and supportable data.

As one of the important aspects of a strategic candidate's election, the survey is useful for monitoring political power. In this case, the success team needs to conduct a survey for: **(1) mapping the candidate's position in public perception; (2) mapping voters' desires; (3) publishing the most effective political machinery used as voters; and (4) Looking for the most effective medium for the campaign.**

## EVALUATION OF A PROJECT OR A PROGRAM

One of the activities that have been performed and experienced offered by TII is a qualitative evaluation of the projects and programs of non-governmental organizations and government. Evaluation activities are offered TII stages of mid-term evaluation of the project/program (mid-term evaluation) and also the final evaluation at the end of the project/program (final evaluation).

As we know, the evaluation is an important step in the implementation of a project or program. Mid-Term Evaluation of the project or program is intended to look at and analyze the challenges, the overall learning takes place during the project or program, and make recommendations for the continuity of the project or program. Meanwhile, the final evaluation allows us to view and analyze the outcomes and the lessons learned to ensure the achievement of all the objectives of the project or program 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).



**Executive Director**

Adinda Tenriangke Muchtar

**Research and Program Manager**

Arfianto Purbolaksono

**Board of Advisors**

Rizal Sukma

Jaleswari Pramodawardhani

Ninasapti Triaswati

Debra Yatim

Abd. Rohim Ghazali

Saiful Mujani

Clara Joewono

**Researcher of Economy Affairs**

Nuri Resti Chayyani

**Researcher of Law Affairs**

Christina Clarissa Intania

**Researcher of Politics Affairs**

Felia Primaresti

**Researcher of Social Affairs**

Dewi Rahmawati Nur Aulia

**Program and Supporting Staff**

Gunawan

**Administration Officer**

Nadine Ufaira

**Finance Officer:** Rahmanita

**IT Staff :** Usman Effendy

**Desain dan Layout**

Siong Cen

Jl. HOS. Cokroaminoto No. 92,  
Menteng, Jakarta Pusat - 10310  
Ph. (021)315-8032  
[contact@theindonesianinstitute.com](mailto:contact@theindonesianinstitute.com)  
[www.theindonesianinstitute.com](http://www.theindonesianinstitute.com)

