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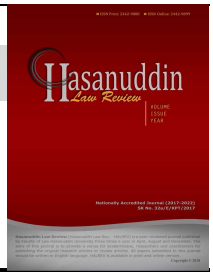

Multilayered Democracy in Papua: A Comparison of "Noken" System and Electoral College System in the United States

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ABSTRACT

The elucidation of understanding popular sovereignty through the implementation of democratic principles when applied to a pluralistic Indonesian society requires a comprehensive study. This study is a normative-legal research by using statute, case, and conceptual approaches. This paper provides information on the latest trend in research. The results show that the characteristics of the general election by Noken system are in line with the Electoral College system to presidential elections in the United States, especially in the Noken system as represented by the chieftain (election by the big man). The Noken system is the result of the relations of political culture and the strengthening of local democracy. Hence, the constitutionality of Noken system is a translation of the constitution that pays attention to the social diversity that lives in society. Not only in the context of general elections, but in every aspect of national and State life, as more attention is given to the constitution of social diversity in society (constitutional pluralism).

1. Introduction

Indonesia is a pluralistic country with a living heterogeneity in each region. The founding fathers of the nation were aware of the high level of diversity. It is evidenced by a motto, "*Bhineka Tunggal Ika* or Unity in Diversity", which was chosen as a nation and state philosophy. It then inspired the Constitution as the highest law to give more attention to diversity in society.[1]

For the State to claim itself as a democratic State (*popular sovereignty*), the existence of direct elections (*direct democracy*) becomes a symbol and primary benchmark. It means that the implementation of elections is a reflection of the fundamental values of democratic principles. Therefore, the basic idea of democracy is freedom, which includes

[1] Shivakumar, S. J. (2003). The Place of Indigenous Institutions in Constitutional Order. *Constitutional Political Economy*, 14(1), 3-21.

the freedom to elect to deliver the people's aspirations. In short, the election is a symbol of popular sovereignty.

The elucidation of understanding the popular sovereignty through democratic principles when applied to a pluralistic Indonesian society, requires a comprehensive study. Hence, what happens if the electoral mechanism used in modern democracies is applied to indigenous peoples? The answer is in the General Election of Yahukimo Regency in 2009 and the General Election of Papua Province in 2013. Back to 2009 election, the people in Yahukimo were involved in the election, but it was adjusted to the indigenous mechanism on the practical level. The chieftain represents the voting of ballots. The voting is not done in the polling booths, and the ballot paper is not put into the ballot box but put into a typical Papuan bag called "*Noken*".[2]

Noken is a traditional Papuan bag that is carried by using a head and made from wood fiber. Literally, the word "*Noken*", as it has been received in the Big Indonesian Dictionary is a term for a traditional bag from Papua made from wood fiber.[3] As bags in general, this bag is used to carry daily necessities. However, this bag or original bag of Papua has more functions and values for indigenous Papuans, because it also contains philosophical,[4] historical,[5] socialist[6] and moralist[7] values.

According to Mandacan tribe, Manokwari, West Papua,[8] *Noken* is also referred to as "*Monga*" made from wood fiber (*bumbai monga*) or can also be made from pineapple leaves (*mamrei monga*). It is made in various sizes and each size has a function such as a small size for storing betel/*siri*, cigarettes (tobacco) etc. Medium size to store school and worship supplies such as books, bible etc. For large size to store plantation products and also used as a carrying tool for babies from generation to generation.

In fact, promoting democracy by establishing local executive elections in Indonesia is challenging. Hence, this paper will discuss the legal policy of the Indonesian general election system by conducting a comparative study of the Noken System Election and the Electoral College System in the United States. In addition, it offers the concept of revaluing a democratic system amid the heterogeneity of values that live in Indonesian society.

2. Method

This study is a normative-legal research by using statute, case, and conceptual approaches.[9] Data were analyzed with descriptive qualitative analysis with content analysis. In this study, the authors used the qualitative research method, which (in

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2 Arizona, Y. (2010, June). Konstitusionalitas Noken: Pengakuan Model Pemilihan Masyarakat Adat dalam Sistem Pemilihan Umum di Indonesia. *Jurnal Konstitusi Pusako Universitas Andalas*, 3(1): 1-22.

3 The Great Dictionary of the Indonesian Language (KBBI). Offline.

4 Philosophical value because Noken has become an identity of the indigenous people of Papua. Likewise the designation that not all groups can use it.

5 Historical value is inherent, because Noken is a cultural heritage or ancestors.

6 As accessories and symbols in various traditional ceremonies.

7 Moralist value, because its form is hollow and can be seen by others, interpreted as a symbol of good life and culture that emphasizes openness, honesty and unity.

8 Hasan B. Musad, Abdul Razak, H.M. Djafar Saidi, A. Pangerang Moenta (2017). The Reconstruction of General Election with "Noken" System on the President and Vice President Election in Indonesia. *Journal of Law, Policy and Globalization*, 63: 212-216.

9 Irwansyah. (2020). *Penelitian Hukum: Pilihan Metode dan Praktik Penulisan Artikel*. Yogyakarta: Mirra Buana Media, p. 162-164.

general) generates words rather than numbers as data for analysis.[10] The approach used is observation and interpretation, which makes these phenomena observable. This paper provides information on the latest trend in research.[11]

3. Transplantation of the Liberal Democracy System: A Comparative Study

Based on historical exploration—in the culture of indigenous Papuans, in terms of democracy from ancient times to the present, decision-making regarding the common interest is always carried out by *Noken* system. In this *Noken* system, decision-making is usually done in a deliberation meeting by involving the whole community or only certain people as representatives. In some instances, decisions can be taken by the chieftain based on his authority to represent the community. The traditional political system[12] built up in the indigenous Papuan is known as the presence of the "*Man of Authority*" or "*Big Man*" leadership. Therefore, decision-making that concerns a common interest can be done through deliberation or decisions based on the authority of the chieftain (*big man*) as a political representation of the community.[13]

A "*Big Man*" or chieftain is not just a political leader who determines the rules that people must follow, but also economic, social, and cultural leaders. His power was not obtained from the lineage, but his leadership's influence, charisma, and colour to be respected. There are rights and obligations among the "*Big Man*" and its people. "*Big Man*" is responsible for the availability of basic needs of its peoples. Nevertheless, on the contrary, the peoples must be loyal to the decisions or rules made by the "*Big Man*".

In this sub-section, the researcher tries to do a comparative study related to the similarity of the election with the *Noken* and *Electoral College* systems applied in the United States. This comparative study was done to compare the electoral system which in principle resembled the election model using the *Noken* system. This is as stated by Zainal Arifin Mochtar[14] that the implementation of *Noken* democracy in Papua is in line with the Electoral College system in the United States. Both of these systems equally do not give people the right to vote, but are represented. If in America the right to vote is in the members of the Electoral College, while in Papua it is charged to the chieftain.

For this reason, a comparison of the electoral system is done to examine the background of the implementation of the two electoral systems. By using this comparative approach, it is expected to be able to provide a comprehensive picture related to the concept of democracy in general, and specifically to the choice of the electoral colleges system in the United States, both in terms of historical and philosophical that go with it. However, the presidential election in the United States is always interesting to follow, not only because the United States is a superpower. Also, because the electoral process always attracts interest that can be said to have become a role model for implementing democracy for the international community.

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10 Patton, M.Q., and Cochran, M. (2007). *A Guide to Using Qualitative Research Methodology*, Medecins Sans Frontieres, UK.

11 Keng, Shao-Hsun. (2017). *Handout Research Topic Development*, Collage of Management, National University of Kaohsiung, Taiwan.

12 Tamma, S., Duile, T. M., & Daud, R. (2020). Adat as a local ideology of indigenous people in political event. *ETNOSIA: Jurnal Etnografi Indonesia*, 5(1), 79 - 90. DOI: https://doi.org/10.31947/etnosia.v5i1.9705

13 Quoted in Decision of the Constitutional Court No. 1/ PHPU. PRES-XII / 2014 related to Dispute over the 2014 General Election of President and Vice-President.

14 Interview, Friday, September 26, 2014.

An essential aspect of presidential elections in the United States that is still rarely known is that the people of the United States in the presidential and vice- presidential elections do not apply the direct election model, but instead apply indirect elections. Even though the ballot cards show the names of competing presidential and vice-presidential candidates, what actually happens is that the people elect the Electoral College which later vote to elect the president in the designated time and place. Americans who have the right to vote do not directly vote for their favorite candidates. However, they vote for Electoral College members. The Electoral College member will then elect the president and vice-president.[15]

At first glance, it seems complicated to understand the presidential and vice-presidential election mechanism used. As formulated earlier, voters will vote separately for the president and vice-president. However, before examining the Electoral College model in the American presidential election, it is first essential to understand the historical context of applying for Electoral College as a political dynamic that follows democracy in the United States.

At least 2 (two) main aspects determine the concept of the American presidential election becoming increasingly complex. *First*, the United States of America consists of 50 States with large and small populations that differ from each other and are very concerned about their rights and tend to be sceptical of the federal government's power. S*econd*, it has a population of 4 million spread over thousands of miles of the Atlantic coast, which is hardly connected with adequate means of transportation and communication.

Finally, to determine the model of presidential elections, the United States Congress then held a Constitutional Convention whose main task was to consider several possible methods of presidential elections while determining the best way for the common good. Several exciting ideas developed during the convention hearing as follows:[16]

a. *Presidential elections by Congress*. This idea was eventually rejected because it was feared that it would invite various illegal political offers and damage the balance of power between the legislature and the executive in the federal government.

b. *Presidential elections by each State legislature*. This idea was not accepted because it would make the position of the legislative body stand out and indirectly erode the authority of the federal government.

c. *Presidential elections directly by the people*. Only a few delegates in the convention agreed to this proposal. This democratic method was also rejected, not because the members of the constitution-makers doubted the ability of the people, but rather because of fears that without sufficient information about candidates from outside the State, the people of a State would naturally elect "*native sons*" who came from the same State as themselves. This allows the emergence of many presidential candidates and the concern that this method will make significant and populous countries dominate the government and exclude small states. The large States can also form regionalism in the form of a coalition to elect president after president from their circles.

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15 Yuliantoro, N.R. (2001). *Pemilihan Presiden Amerika Serikat Tahun 2000 dan Hikmahnya Bagi Indonesia.* Original Research. Faculty of Social and Political Sciences, University of Gadjah Mada, Yogyakarta, p. 6.

16 *Ibid.,* pp. 16-17.

In the end, the Constitutional Convention that was conceived produced an agreement to hold indirect presidential elections (*indirect democracy*) through a model of Electoral College. This indirect presidential election system was created with the hope that it would reduce attempts at fraud, intrigue, and corruption in its application. Furthermore, the results of the Convention arrange that the United States Constitution submits provisions regarding the appointment of members of the Electoral College (elector) in each State, but provided that members of Congress and government employees may not be elector (Article II, Section 1 (2) Constitution of the United States of America).[17] In addition, each presidential and vice-presidential candidate must come from a different State.

Why was this system finally chosen? According to Barton, as quoted in Yuliantoro, *et al*.,[18] mentioned that the *Electoral College* contains 2 (two) fundamental philosophies in the Constitution: *the first*, to maintain the form of republican government. *The second* is a balancer to inter-State and inter-regional power with different area and background. Because when forming a federal government, a small State like Rhode Island fears that it has no vote, and therefore there is no protection in dealing with a large State like New York or Massachusetts. At the same time, agricultural regions in rural with a small population are afraid of the inability to protect their interests against the dominant fishing and shipping industry in coastal States with a larger population.

Consideration to safe the vote and interests of small States and rural areas caused the founding fathers to form a two-chamber legislative system. One assembly called the House of Representatives as the representative body of the States, with the number of representatives varies according to the population. Another institution is called the Senate, which is an equal number of State representatives regardless of the size of the population.

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Furthermore, the number of electors determined in the Electoral College system is equal to the number of House of Representatives members and Senate members from each State. In some States, the legislative council decides that the electors are elected by the council concerned. On the other hand, some decide that the elector must be determined through direct election by the people. Thus, under the Electoral College system, small States obtain proportional votes. In addition, the Electoral College system tends to be more representative of voters in small States. It does not matter how small a State is. In James Bayard's[19] view stated that the Electoral College is a means of self-protection for States without adequate resources.

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17 In the provisions of Article II, Section 1 (2) of the Constitution of the United States of America states: "Each state should designate, as provided for by law, the number of Electors, equal to the number of Senators and Representatives who are eligible to represent the States in Congress: But no Senator or Representative, or someone who serves as a foundation or makes a profit on behalf of the United States is appointed as Elector."

18 Yuliantoro, *Loc.cit.*

19 *Ibid.*, p. 19.

In this context, the Electoral College system in the United States if linked to the use of the election model with *Noken* system in Papua has the same principle in common. If in America, the elector has votes to elect the president and vice-president, but in Papua, the election is conducted by the chieftain or the big man.

Fukuyama mentions it in his book "*The End of History and the Last Man*"[20] that liberal democracy will continue to afflict all civilizations. However, he also does not deny that this system will collide with several civilizations with certain political systems and cultural values. Among these are Melanesian civilizations, including Papua, which has a political system based on the "Big Man" or chieftain.

As explained earlier, the researcher then classifies the *Noken* system into 2 (two) models: 1) Election in the field, and 2) Election by the big man (Figure 1).

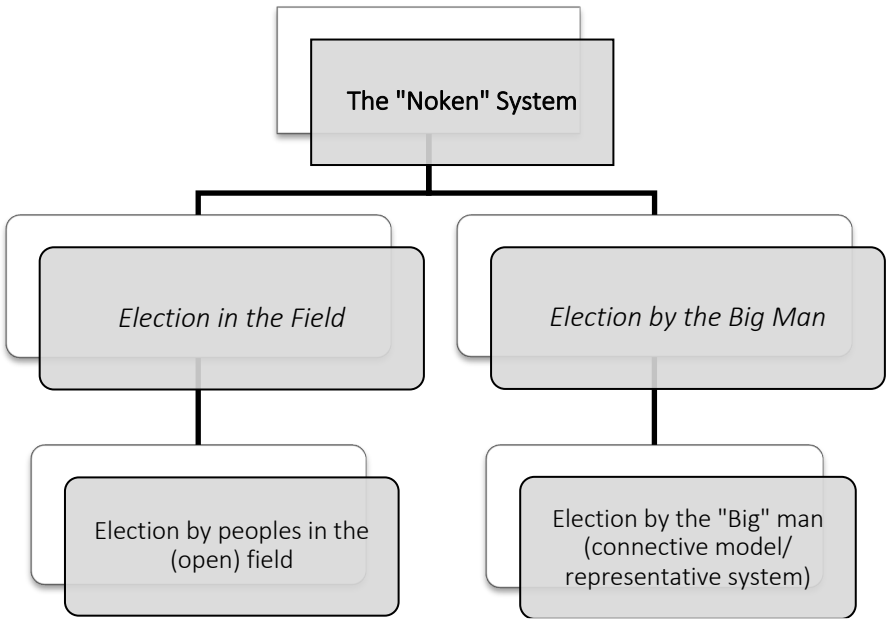

Figure 1. Election model with *Noken* system

The first model is election using Noken conducted in an open field (*election in the field*) around the polling area. By this way, the organizing committee, in this case the *Local Election Organizer Group* (KPPS – *Kelompok Penyelenggara Pemungutan Suara*) allows community groups to bring and/or KKPS themselves prepares Noken as a substitute for ballot boxes in accordance with the number of candidate pairs in a general election.[21] Then, *Noken* is then plugged into a piece of wood with a picture of each candidate attached to the wood.[22] After that, the people line up right in front of *Noken* according to the candidate to be chosen.

[20] Fukuyama, F. (2005). *Memperkuat Negara: Tata Pemerintahan dan Tata Dunia Abad 21.* Translated by A. Zaim Rofiqi. Jakarta: PT Gramedia Pustaka Utama, p.5.

[21] See, Article 2 paragraph (3) Decision of Papua Provincial Election Commission No. 01/Kpts/KPU Prov.030/2013

[22] See, Article 3 Decision of Papua Provincial Election Commission No. 01/Kpts/KPU Prov.030/2013

It is different from the second model, namely the election represented by the chieftain (connective model/representation system). In this model, the chieftain comes to the organizers of the general election to collect the ballots according to the number of registered voters. After receiving the ballot papers, the chieftain then fills in the ballots by stabbing a picture of his choice and submitting all the ballots to the committee. This model is often called the connective system or representative system by the big man.

In the election model by the big man, principally, this has similarities with the implementation of the Electoral College system in the United States. Each system does not implement elections with a liberal democratic model (*one person, one vote*), but it is done through representation (*indirect democracy*). Nevertheless, on the contrary, when viewed from the socio-historical perspective, between the Electoral College and *Noken* system, each has a different approach to each other.

The election by Electoral College system is based on proportional aspects between States because of the enormous disparity of region and population in each State. By comparison, the *Noken* system is based on philosophical, cultural values,[23] and the rules of law that live in the community (*living law*) as an integral part that cannot be separated from the unity of customary law communities in Papua, especially in the central mountain region.

4. Conclusion

The characteristics of the general election by *Noken* system are in line with the Electoral College system to presidential elections in the United States, especially in the Noken system as represented by the chieftain (*election by the big man*). The characteristics of the electoral model held in an open field (election in the field) are contrary to the principle of general elections that are confidential. The *Noken* system is the result of the relations of political culture and the strengthening of local democracy. The constitutionality of *the Noken* system is a translation of the Constitution that pays attention to the social diversity that lives in society (*the living law*).

Constitutionalization of the *Noken* system as one of the electoral models in Indonesia must be interpreted as a precedent in the formulation of legal policy in relation to the recognition of the traditional rights of indigenous peoples as long as they are still alive. In the context of general elections, not only in every aspect of national and State life, more attention is given to the Constitution of social diversity in society (*constitutional pluralism*).

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[23] Patittingi, F. (2020). New Paradigm in Natural Resources Management: Securing Indigenous Peoples Rights. *Hasanuddin Law Review, 6*(1), 56-65. DOI: http://dx.doi.org/10.20956/halrev.v6i1.2267

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Conflict of Interest Statement:

The author(s) declares that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.