



The Vote of the Big Man in Papua's Noken System: Indigenous Justice and Human Dignity

Suara Big Man dalam Sistem Noken di Papua: Keadilan Masyarakat Adat dan Martabat Kemanusiaan

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Abstract

The Noken system in Papua has generated significant debate regarding the balance between electoral democratic principles and Indigenous political traditions. Within this system, the Big Man holds a central position as the decision-maker for collective votes through structured community deliberation. Although frequently viewed as conflicting with the principle of "one person, one vote," this practice represents an Indigenous conception of justice based on communal consensus and respect for leaders with strong moral legitimacy. This study aims to examine the role of the Big Man in the Noken system, its contribution to the protection of human dignity, and its relevance within Indonesia's legal and democratic framework. Using a qualitative approach supported by literature review and analysis of Constitutional Court decisions, the research identifies that the legitimacy of the Big Man rests on a consistent record of service, the capacity to maintain social harmony, and customary authority recognized by the community. Findings indicate that the Noken system functions as a valid expression of cultural democracy when implemented in a participatory, transparent manner and when it accommodates individuals who choose to vote independently. This research offers a unique contribution by demonstrating the compatibility of Indigenous political mechanisms with human rights principles and by providing insights for strengthening electoral governance in Indigenous regions.

Abstrak

Sistem Noken di Papua menimbulkan perdebatan mengenai keseimbangan antara prinsip demokrasi elektoral dan praktik politik adat. Dalam sistem ini, Big Man memegang peran sentral sebagai penentu suara kolektif melalui mekanisme musyawarah kampung. Meskipun sering dianggap tidak sejalan dengan asas "satu orang satu suara", praktik tersebut mencerminkan model keadilan masyarakat adat yang menempatkan konsensus komunal dan penghormatan pada pemimpin moral sebagai dasar legitimasi politik. Penelitian ini bertujuan menganalisis Suara Big Man dalam Sistem Noken berkontribusi pada pemenuhan martabat kemanusiaan dan keadilan adat, serta praktik ini dipahami dalam kerangka hukum dan demokrasi Indonesia. Menggunakan pendekatan kualitatif melalui studi literatur dan analisis putusan Mahkamah Konstitusi, penelitian ini menemukan bahwa legitimasi Big Man terbentuk melalui rekam jejak pelayanan, kemampuan menyatukan komunitas, serta otoritas sosial yang diakui secara adat. Temuan menunjukkan bahwa sistem Noken dapat dipandang sebagai bentuk demokrasi kultural yang sah selama prosesnya partisipatif, transparan, dan tidak menghilangkan hak individu yang ingin menggunakan pilihannya sendiri. Penelitian ini berkontribusi pada pemahaman tentang mekanisme



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politik berbasis adat dapat diintegrasikan dengan prinsip hak asasi manusia serta memberikan perspektif baru bagi penguatan kebijakan pemilu di wilayah adat.

INTRODUCTION

Praktik penyelenggaraan pemilihan umum di Indonesia seringkali dicirikan oleh berbagai anomali prosedural dan substansial yang telah memicu timbulnya resistensi publik yang meluas (Yunus, 2025). Kondisi hukum yang kurang memadai ini telah menimbulkan disintegrasi keyakinan terhadap proses demokratis, di mana norma-norma formal seringkali gagal terimplementasi secara seiring dengan pencapaian keadilan substansial di lapangan (Lubbi, 2021). Berbagai laporan dari lembaga pemantau independen, beserta kajian akademis, secara konsisten mengindikasikan adanya manipulasi suara, praktik politik uang, dan pelanggaran prosedur yang mengikis integritas sistem (Yunus, 2025). Konsekuensinya, legitimasi hasil pemilihan umum dipertanyakan, sehingga muncul tuntutan kolektif untuk reformasi yang lebih mendalam guna penegakan keadilan yang hakiki (Satriawan dan Silalahi, 2024).

Konteks spesifik Papua, resistensi publik ini bermanifestasi dalam bentuk penegasan terhadap sistem pemilu adat, yakni noken (Satriawan dan Silalahi, 2024). Sistem ini dipandang sebagai manifestasi respons terhadap disonansi antara hukum positif yang bersifat sentralistik dan realitas sosial-budaya masyarakat adat Papua (Wospakrik dan Thesiar, 2025). Di wilayah geografis pegunungan yang terisolasi, di mana aksesibilitas dan komunikasi mengalami kendala signifikan, praktik noken telah muncul sebagai solusi yang bersifat pragmatis dan sosial yang mengakomodasi struktur kepemimpinan lokal (Yunus, 2025). Demikianlah noken telah bertransformasi menjadi simbol perlawanan terhadap sistem yang dianggap sebagai entitas eksternal dan tidak relevan dengan kearifan lokal (Lubbi, 2021).

Fenomenologi noken memperlihatkan adanya pluralisme hukum yang berada dalam tegangan, di mana hukum adat berinteraksi secara konfliktual dengan kerangka hukum nasional (Wospakrik dan Thesiar, 2025). Hukum adat meregulasi tatanan sosial berdasarkan tradisi, sedangkan hukum nasional berlandaskan pada prinsip-prinsip universal pemilihan umum, seperti asas satu orang satu suara (Lubbi, 2021). Konflik ini secara rutin berujung pada sengketa elektoral dan putusan-putusan yudisial yang ambivalen, yang berupaya menyeimbangkan antara pengakuan terhadap adat dan penegakan hukum positif (Satriawan dan Silalahi, 2024). Situasi tersebut secara faktual telah menciptakan ketidakpastian hukum yang signifikan, baik bagi penyelenggara pemilu maupun bagi para pemangku kepentingan dalam masyarakat (Wospakrik dan Thesiar, 2025).

Kajian literatur mengenai sistem pemilu di Indonesia sebagian besar terfokus pada aspek-aspek teknis dan legal-formal, dengan atensi yang terbatas pada dimensi sosiokultural dan kemanusiaan (Satriawan dan Silalahi, 2024). Studi-studi yang ada cenderung mengkritik noken sebagai praktik yang tidak demokratis karena dipandang melanggar asas-asas fundamental pemilihan umum (Lubbi, 2021). Sebagai contoh, banyak penelitian yang menggarisbawahi defisit dalam aspek kerahasiaan, kebebasan, dan kesetaraan dalam praktik noken (Wospakrik dan Thesiar, 2025). Oleh karena itu, terdapat suatu lakuna dalam literatur yang menuntut untuk diisi dengan analisis yang lebih holistik, yang mempertimbangkan perspektif dari kacamata masyarakat adat dan martabat kemanusiaan (Yunus, 2025).

Selain itu, literatur yang ada juga gagal mengintegrasikan secara penuh konsep martabat kemanusiaan ke dalam analisis sistem pemilu adat (Lubbi, 2021). Meskipun hak pilih individu diakui secara universal sebagai hak asasi manusia, sebagian besar penelitian mengabaikan bagaimana hak ini dapat dimaknai dalam konteks kolektif masyarakat adat yang memprioritaskan kebersamaan dan musyawarah (Wospakrik dan Thesiar, 2025). Penelitian-penelitian terdahulu lebih sering mengobservasi pelanggaran hak daripada berupaya memahami mengapa masyarakat adat memilih untuk menggunakan sistem noken (Satriawan dan Silalahi, 2024). Kondisi ini mengindikasikan bahwa diperlukan suatu pendekatan baru yang mengimplementasikan analisis hukum dengan perspektif humanis guna mencapai pemahaman yang komprehensif terhadap dilema yang dihadapi (Yunus, 2025).

Berdasarkan kesenjangan literatur dan permasalahan yang telah diidentifikasi, tulisan ini bertujuan untuk menganalisis secara mendalam penegakan dan kepastian hukum dalam sistem pemilu noken dengan menyertakan perspektif kemanusiaan (Wospakrik dan Thesiar, 2025). Tujuan ini memiliki relevansi tinggi karena diperlukan pemahaman yang lebih komprehensif tentang interaksi antara hukum nasional dan hukum adat, utamanya dalam konteks hak asasi manusia (Lubbi, 2021). Analisis yang disajikan akan difokuskan pada bagaimana prinsip universal kemanusiaan dapat diimplementasikan dalam konteks kearifan lokal Papua (Satriawan dan Silalahi, 2024). Dengan demikian, penelitian ini tidak hanya menelaah aspek-aspek legal, tetapi juga menyoroti dimensi etis dan sosial yang seringkali terabaikan (Yunus, 2025).

Argumentasi sentral dari tulisan ini adalah bahwa diperlukan formulasi kebijakan hukum yang mampu mengakomodasi pluralisme hukum, melestarikan sistem noken sebagai warisan budaya, sekaligus menjamin terselenggaranya pemilu yang demokratis dan berintegritas (Yunus, 2025). Pendekatan yang selama ini diterapkan, baik yang bersifat menolak maupun mengakomodasi secara terbatas, terbukti tidak efektif dalam mengatasi akar masalah (Lubbi, 2021). Hasil dari penelitian ini diharapkan dapat menegaskan perlunya keseimbangan yang cermat antara penghormatan terhadap tradisi dan penegakan prinsip-prinsip pemilu yang menjamin martabat kemanusiaan (Wospakrik dan Thesiar, 2025). Dengan demikian, artikel ini mengusulkan solusi yang lebih adil dan berkelanjutan bagi tantangan pemilu di Papua, yang sejalan dengan semangat keadilan masyarakat adat dan martabat kemanusiaan (Satriawan dan Silalahi, 2024).

METHODS

Penelitian ini menggunakan pendekatan yuridis normatif yang berfokus pada norma dan kaidah hukum yang berlaku dalam masyarakat. Pendekatan ini bertujuan untuk menganalisis dan memahami bagaimana hukum diterapkan dalam konteks sistem pemilu noken di Papua, serta mengeksplorasi interaksi antara hukum adat dan hukum positif dalam praktik penyelenggaraan pemilu.¹ Metode penelitian yang digunakan bersifat kualitatif dengan studi kasus, yang memungkinkan peneliti memperoleh pemahaman lebih mendalam mengenai sistem noken dan penegakan hukum yang menyertainya.² Studi kasus dipilih untuk memberikan gambaran konkret mengenai dinamika pelaksanaan sistem noken, sekaligus mengidentifikasi tantangan-tantangan yang muncul dalam implementasinya.

¹ Soekanto, "Pengantar Penelitian Hukum, 2015."

² Soekanto dan Mahmudji, "Pengantar Penelitian Hukum Normatif Suatu Tinjauan Singkat."

Sumber data penelitian terdiri dari bahan hukum primer, sekunder, dan tersier. Bahan hukum primer mencakup peraturan perundang-undangan yang mengatur pemilu, khususnya yang berkaitan dengan sistem noken, seperti Undang-Undang Otonomi Khusus No. 21 Tahun 2001 dan Peraturan Komisi Pemilihan Umum.³⁴⁵ Bahan hukum sekunder berupa buku, artikel jurnal, serta pendapat para ahli yang relevan, sementara bahan hukum tersier berupa sumber yang memberikan penjelasan tambahan, seperti ensiklopedi hukum dan dokumen resmi. Pengumpulan data dilakukan melalui studi kepustakaan atau studi dokumen, dengan menganalisis dokumen hukum, peraturan, serta literatur yang relevan.⁶ Data yang diperoleh kemudian dianalisis secara kualitatif dengan mengidentifikasi tema-tema utama, menghubungkannya dengan teori serta literatur yang ada, dan memanfaatkan triangulasi data untuk memastikan validitas serta reliabilitas hasil penelitian. Dengan cara ini, penelitian diharapkan mampu memberikan gambaran yang komprehensif tentang penegakan hukum dan kepastian hukum dalam konteks sistem noken, sekaligus menghasilkan rekomendasi yang dapat memperkuat integritas demokrasi di Papua.⁷

ANALYSIS AND DISCUSSION

Sistem Noken di Papua

The noken voting system in Papua is a unique voting method rooted in local tradition. The noken, a traditional bag made from natural fiber, is used to collect votes in the election process. In this context, the noken serves not only as a voting tool but also as a symbol of the cultural values and local wisdom of the Papuan people. The use of the noken represents the Papuan electoral system, which prioritizes collectivity and deliberation in decision-making, which are integral parts of their social life.

The voting process in the noken system takes two main forms: hanging noken and collective noken. In hanging noken, a noken bag is hung at the polling station, and voters can use the bag to cast their ballots. Meanwhile, in collective noken, a tribal chief or community leader acts as a representative to cast votes on behalf of the community. This process demonstrates that decisions are made collectively, where individual votes are combined to create a shared consensus. This reflects democratic values based on active community participation in decision-making. Although the noken system reflects local wisdom, there are challenges in documenting and verifying the decision-making process. Often, there are no official records documenting the results of deliberations, making it difficult to ensure the legitimacy and transparency of the election process. This lack of clarity can lead to potential conflict and dissatisfaction among communities, especially if any party feels disrespected or ignored. Therefore, it is crucial to create mechanisms that guarantee accountability for the vote counting process and its results.⁹

Legal certainty is also a crucial aspect of the noken election system. Without clear and firm regulations, communities may hesitate to participate in elections, which

³ Undang-Undang Nomor 21 Tahun 2001 tentang Otonomi Khusus bagi Provinsi Papua.

⁴ Putusan Mahkamah Konstitusi No. 47-48/PHPU.A-VI/2009.

⁵ Adhyaksa, Weku, dan Konoras, "Sistem Noken: Pandangan Hukum Nasional dan Konsistensi Nilai-Nilai Demokrasi," 45.

⁶ Muhaimin, "Metode Penelitian Hukum," 29.

⁷ Nugroho, Haryani, dan Farkhani, "Metodologi riset hukum."

can undermine the legitimacy of the election results. Therefore, it is crucial to integrate customary law with positive law so that the noken system can function effectively and in accordance with democratic principles. Therefore, enforcing regulations that accommodate customary values in the election process is crucial to creating a more inclusive and equitable system and increasing public trust in the election process in Papua.

The Trust and Authority of the "Big Man"

The concept of trust in a "Big Man" is central to the social and political structures of Papuan indigenous communities. This trust is not formed overnight; it is built through continuous interaction, shared experiences, and long-term contributions to the welfare of the group. A Big Man's influence is grounded in moral authority rather than formal power. People respect him not because they are forced to, but because they genuinely believe in his character and judgment.

In this cultural framework, submitting one's voice to the Big Man is not a sign of weakness or blind obedience. Instead, it is a voluntary acknowledgment of his ability to protect communal interests. Individuals recognize that their voices, when united, will have greater impact and meaning when expressed through a trusted leader. Thus, the Big Man becomes the channel through which collective aspirations and concerns are articulated.

The Big Man is not selected through popularity contests or superficial displays of charisma. Popularity, in the modern political sense, does not play a decisive role. What matters is experience, reputation, and demonstrated commitment to the community. A true Big Man grows into his role over time, guided by the continuous affirmation of the people around him.

Wisdom is perhaps the most essential quality of a Big Man. He is expected to understand not only the needs of individuals but also the intricacies of relationships among clans, families, and external stakeholders. His decisions must reflect deep knowledge of cultural norms, historical precedents, and long-term implications. This wisdom is not theoretical; it emerges from lived experience.

Integrity also distinguishes a Big Man from ordinary figures of influence. In Papuan society, a leader's ethical conduct is constantly observed by the community. He must show consistency between words and actions. Should he betray the trust of the people, his legitimacy would erode, and he would no longer be viewed as worthy of leadership. Integrity is therefore a prerequisite, not a bonus.

The Big Man is more than a spokesperson; he is a mediator. Conflicts inevitably arise within and between groups, and it is his responsibility to facilitate solutions that honor tradition and justice. His role as a peacekeeper reinforces his reputation as someone who protects harmony rather than personal prestige. A peaceful community is a testament to his leadership.

Economic well-being is another domain in which the Big Man proves his ability. He ensures that resources are distributed fairly, that nobody is left behind, and that collective prosperity remains a priority. He often mobilizes networks, negotiates alliances, and coordinates communal labor to sustain livelihoods. This stewardship further deepens the community's confidence in him.

Because of these qualities, the decisions made by a Big Man are perceived as thoughtful and comprehensive. When he speaks or chooses a direction for the community, people trust that his conclusions are grounded in careful deliberation. He listens to elders, considers young people's needs, and balances immediate concerns with long-term stability. His words carry weight because they embody the collective experience.

Importantly, the authority of the Big Man does not derive from self-interest. His leadership is inseparable from service. Every decision he makes must advance communal goals rather than personal ambition. The moment leadership becomes a tool for profit, manipulation, or domination, it ceases to reflect the cultural ideal of the Big Man.

For these reasons, Papuan communities view the Big Man's decisions as a representation of collective will. The voice of the leader is understood to be a synthesis of many voices—those of families, clans, elders, and youth. Trust is therefore not passive submission; it is a conscious and culturally grounded act of confidence in a figure who has proven his worth through service, wisdom, and unwavering integrity.

Collective Dignity Over Individual Dignity

The concept of collective dignity fundamentally challenges the assumption that human worth is best measured through individual autonomy. Liberal democratic thought often equates dignity with the ability to choose freely, as if a person's value begins and ends with personal independence. Yet in many communal societies, such as those in Papua, this idea is incomplete. Human dignity is understood not as an isolated expression of self, but as a relational quality built through shared responsibility, cultural ties, and reciprocal obligations. Individual identity gains meaning because it is embedded within a collective that nurtures, protects, and gives purpose to each member. The community is not an external force that restricts the individual; it is the very context that makes individual existence possible.

In this worldview, the highest expression of dignity is not found in asserting personal will against everyone else, but in participating in the preservation of social harmony. A person becomes honorable when they act in ways that sustain intergenerational cohesion, maintain peace among kinship groups, and respect the elders whose wisdom safeguards cultural continuity. Choosing to relinquish individual preference is therefore not a symbol of weakness; it is an acknowledgment of one's role within a living social organism. Those who willingly prioritize group consensus demonstrate maturity, loyalty, and a deep understanding of the ethical foundations that hold their community together. They are celebrated not because they stand apart, but because they stand with others.

Such choices do not imply that individuality is erased. Rather, individuality is redefined within a moral framework that understands freedom as intertwined with responsibility. One's actions are evaluated holistically: the question is not simply what benefits the individual today, but how a decision influences family relations, clan stability, land stewardship, and the future of younger generations. The dignity of a person becomes inseparable from their ability to safeguard collective welfare. In this sense, communal cultures offer an alternative paradigm of human rights—one that is not rooted in atomized self-expression, but in relational ethics and reciprocal duty. Autonomy is real, but it is exercised through commitment to the common good.

The noken system encapsulates these principles in a concrete electoral practice. When a community entrusts its vote to a leader or representative, the act is not interpreted as a surrender of agency. Instead, it is a ritual affirmation of collective strength. The Big Man or the chosen representative embodies the consensus of the people, shaped by dialogue, customary proceedings, and the shared experience of living together. Delegating choice reflects trust: not only in the leader's capacity to make decisions, but in the community's belief that unity matters more than fragmentation. Even when individuals may harbor personal preferences, they honor the decision as the outcome of communal reasoning and cultural legitimacy. Their dignity lies not in breaking ranks, but in sustaining the relational bonds that ensure collective stability.

Thus, the value system underlying the noken model does not glorify the individual ego. Instead, it elevates the community as the source of identity, morality, and political authority. The group's existence precedes that of its members; its continuity defines the scope of their lives and futures. This is why prioritizing collective consensus is seen as noble rather than restrictive—it reinforces the social fabric upon which every member relies. The noken system is therefore more than a method of voting; it is an expression of collective dignity, grounded in cultural logic that views human beings as interconnected rather than isolated. In this perspective, dignity is not diminished by collective decision-making; it is realized through the shared commitment to harmony, mutual care, and the preservation of communal life.

Communal Justice vs. Procedural Justice

Communal justice, as embodied in the noken system, stands in contrast to procedural justice found in modern democratic systems. Procedural justice prioritizes formal mechanisms: individual ballots, secret voting booths, standardized counting, and transparent protocols. These procedures are designed to guarantee fairness by ensuring each person expresses their preference privately and independently. However, in cultures where the collective identity outweighs individual autonomy, fairness is not determined by the mechanics of voting. Instead, it is measured by whether the outcome preserves community unity, respects tradition, and safeguards social harmony. The noken system therefore redefines the essence of justice, grounding it in communal consensus rather than procedural exactness.

At the heart of this model is deliberation led by a respected Big Man or local leader whose authority stems from wisdom, integrity, and proven service. This deliberative process is not a superficial exchange of opinions; it is an inclusive social ritual shaped by cultural norms and communal expectations. Every household, clan, and generational group has space to express their perspective, either directly or through representatives who speak on their behalf. The collective nature of the discussion ensures that no one is entirely excluded, even if not everyone votes individually. The community's voice is captured not through ballots, but through relational dialogue, reflection, and negotiated agreement.

In this sense, justice is understood as a shared responsibility. The goal is not to satisfy formal guidelines, but to produce a decision that does not disproportionately harm any member of the community. If one family, lineage, or group would be

disadvantaged by a particular choice, the decision is revisited until balance is restored. The process is iterative, patient, and deeply ethical, rooted in the understanding that social ties are fragile and must be protected. Unlike procedural systems that often accept conflict as a legitimate outcome of competition, communal justice treats discord as a potential threat to social stability and therefore something to be prevented rather than tolerated.

The Big Man or community leader plays a central role in mediating these deliberations. His authority is not merely symbolic; it is functional, ensuring fairness through collective consultation rather than bureaucratic steps. Because the leader embodies trust, he is responsible for synthesizing the perspectives heard and presenting a direction that reflects the community's interests. When he speaks, he does so as an instrument of communal reasoning, not as an individual imposing his will. His legitimacy is continually reaffirmed by his ability to maintain harmony, uphold balance, and resolve tensions that may arise between competing interests. In this framework, leadership is inseparable from ethical duty.

Thus, the noken system represents a form of outcome-oriented justice. It prioritizes the preservation of harmony above the mere fulfillment of formal procedures. The ultimate question is not "Was the process technically correct?" but rather "Does the decision sustain the community?" This philosophy stands in sharp contrast to procedural democracies that regard the process as inherently just regardless of the social consequences. For Papuan communities, justice that fractures relationships or isolates individuals is not justice at all. True fairness is the kind that strengthens bonds, respects cultural foundations, and ensures that every member of the community continues to live within a shared and peaceful social order.

Law Enforcement and Transparency Issues

The enforcement of law within the noken system presents a crucial challenge because it often encounters significant obstacles concerning transparency and accountability. While the practice is rooted in a respected tradition of collective decision-making and indigenous cultural values, it operates in a modern electoral context where legal standards emphasize verifiability and procedural consistency. The gap between traditional legitimacy and legal legitimacy becomes apparent when outcomes cannot be objectively validated. This tension creates a conceptual dilemma: how can an indigenous mechanism that prioritizes communal harmony be reconciled with national standards designed to protect the principle of one person, one vote?

In practice, the noken system can inadvertently create opportunities for electoral misconduct. Without clear documentation or independent oversight, discrepancies may emerge between the number of votes declared and the number of eligible voters. Scholars such as Setyowati (2020) have noted that manipulations can occur during aggregation, particularly when community leaders or intermediaries exaggerate the support of the group or fail to accurately reflect dissenting voices. These vulnerabilities are not always the result of malicious intent; sometimes they stem from logistical challenges, limited access to electoral education, or ambiguous procedural interpretations at the local level. Nevertheless, the mere potential for irregularities undermines public confidence and invites skepticism from both internal and external observers.

Election monitoring institutions have documented instances where verification becomes virtually impossible. Reports from the 2019 election, as highlighted by Wibowo (2019), recorded several cases in which vote results submitted through noken could not be independently audited. In these situations, observers were unable to confirm whether community endorsement genuinely occurred or whether it was merely asserted by local leaders. The absence of verifiable ballots, combined with opaque decision-making processes, created a perception that outcomes could be influenced by elites or groups with vested interests. Even if the process remained culturally legitimate, democratic legitimacy was weakened because the results lacked measurable transparency.

This reveals a fundamental need for a deeper legal and institutional analysis of how enforcement mechanisms could function within the noken context without destroying its cultural foundation. Conventional legal approaches—focused on strict procedural compliance—may not fully capture the nuances of communal decision-making. Imposing rigid ballot-based requirements risks eroding indigenous autonomy and delegitimizing practices that have historical value. On the other hand, ignoring accountability concerns leaves communities vulnerable to exploitation and perpetuates distrust among voters, state institutions, and electoral bodies. A hybrid model is therefore necessary: one that acknowledges traditional representation while incorporating safeguards that protect against abuse.

Ultimately, the question of law enforcement in the noken system is not merely a matter of technical regulation, but one of democratic integrity and public trust. Any solution must ensure that elections are both culturally meaningful and institutionally credible. This requires transparent mechanisms for documenting consent, stronger election oversight tailored to local conditions, and legal frameworks that respect indigenous values without compromising fundamental democratic principles. If these reforms are pursued thoughtfully, the noken system has the potential to coexist with modern electoral standards, preserving its communal spirit while meeting the expectations of a democratic state.

Ensuring Legal Certainty and Voting Rights

Legal certainty is an essential principle in any legal system, including electoral processes, because it guarantees the protection of citizens' voting rights. In modern democracies, legal certainty provides clarity regarding procedures, responsibilities, and consequences, so that every participant—voters, administrators, and candidates—can rely on consistent rules. This principle ensures that electoral outcomes are not determined arbitrarily or influenced by informal negotiations, but rather by laws that apply equally to all. Without legal certainty, trust in the electoral system erodes, as individuals may fear that their rights are subject to manipulation or selective enforcement.

Within the noken system, legal certainty has a more complex meaning because it encompasses not only the formal regulations governing elections but also the culturally recognized mechanisms through which communities express their political will. In this context, legal certainty must assure that every vote—whether cast individually or through collective representation—receives equal treatment. The challenge lies in bridging a gap between two forms of legitimacy: the legitimacy of customary authority that reflects community consensus, and the legitimacy of state law that demands procedural clarity. When these two forms of legitimacy are not harmonized, uncertainty

arises about how votes are counted, validated, and ultimately reflected in electoral outcomes.

This uncertainty has tangible consequences. If voters perceive that their rights are not properly safeguarded, participation may decline and skepticism toward the electoral process may increase. Communities that rely on collective decision-making may feel their traditions are misunderstood or marginalized, while those who favor individual voting may fear that their voices are overshadowed by group authority. According to Rahardjo (2018), weak legal certainty creates a psychological barrier that discourages public participation because individuals doubt whether the system is capable of ensuring fairness. When citizens no longer believe that their votes matter, the legitimacy of the resulting government is compromised, regardless of whether the electoral process was culturally valid.

Empirical evidence demonstrates how legal ambiguity surrounding the noken system often leads to post-election disputes. A number of cases brought before the Constitutional Court illustrate the tension between customary law and positive law. Sutopo and Siregar (2022) note that unclear legal norms—such as the criteria for community consent, documentation standards, and verification procedures—frequently trigger challenges after election results are announced. These disputes do not necessarily arise because the community rejects the noken tradition; rather, they emerge when external stakeholders, political opponents, or judicial bodies demand formal evidence that customary processes are unable to provide. The courtroom becomes a battleground between legal philosophies: one grounded in proceduralism, the other in communal consensus.

Thus, the issue of legal certainty in the noken system is neither superficial nor technical—it strikes at the core of how justice, legitimacy, and cultural autonomy are understood in Indonesia. If the state insists on rigid procedural standards without acknowledging indigenous mechanisms, it risks delegitimizing a system that carries deep cultural meaning. Conversely, if it allows custom to override legal clarity, it creates opportunities for electoral abuse and undermines constitutional protections. A balanced approach must therefore be developed: one that respects the moral authority of local traditions while ensuring transparent, verifiable, and enforceable rules. Only through this dual recognition can legal certainty be achieved in a way that strengthens both democratic integrity and cultural identity.

Pendekatan Yuridis Normatif dan Hukum Adat

Penelitian ini bertujuan menganalisis penegakan hukum dan kepastian hukum dalam sistem noken melalui pendekatan yuridis normatif. Pendekatan ini relevan karena memungkinkan eksplorasi interaksi antara hukum adat dan hukum positif.⁸ Dengan mengkaji norma-norma yang ada dalam undang-undang pemilu dan membandingkannya dengan praktik adat yang berlaku, penelitian dapat mengidentifikasi titik temu, benturan, atau celah hukum. Misalnya, pendekatan ini dapat menganalisis putusan-putusan Mahkamah Konstitusi yang mengakui keberadaan noken, namun dengan syarat-syarat yang ketat untuk memastikan keadilan, seperti kesepakatan semua pihak yang terlibat.

⁸ Marzuki, "Penelitian Hukum (Edisi Revi)."

Law Enforcement in the Noken System

Law enforcement within the noken electoral system in Papua plays a central role in ensuring that elections are conducted in a fair, transparent, and accountable manner. This responsibility is particularly complex because the system combines modern constitutional principles with customary communal practices. Unlike standard ballot-based voting, the noken system involves the collective delegation of electoral choices, which requires oversight that is sensitive to cultural norms without compromising democratic integrity. As a result, formal institutions must navigate between respecting indigenous decision-making traditions and guaranteeing that electoral rights are protected equally for all citizens.

Several institutions have key responsibilities in maintaining the integrity of elections under the noken tradition. The General Elections Commission (Komisi Pemilihan Umum/KPU) serves as the primary body responsible for designing and executing the electoral process, including issuing regulations that govern how the noken method is implemented. This function makes the KPU instrumental in establishing procedural clarity, determining eligibility, and standardizing practices across different regions. When regulation is absent or vague, the KPU's role becomes even more critical, as inconsistencies may arise across districts that interpret customary processes differently. Therefore, the institution must continuously refine its policies to prevent ambiguity and ensure equitable treatment of all communities.

The Election Supervisory Body (Badan Pengawas Pemilu/Bawaslu), meanwhile, is tasked with overseeing the entire election process and handling potential violations. Bawaslu's monitoring functions are designed to detect irregularities, mediate disputes, and preserve the legitimacy of electoral outcomes. In regions where the noken system is in use, Bawaslu often faces the challenge of determining whether violations stem from deliberate misconduct or from misunderstanding of the rules governing customary practices. When oversight mechanisms are unclear or inadequately enforced, the credibility of the electoral process weakens, particularly in areas where external observers already scrutinize deviations from standard electoral procedures.

Another crucial layer of law enforcement comes from the police, whose role is to maintain security and public order during voting activities. Their presence is essential to prevent intimidation, unrest, or other disruptions that may interfere with the voting process. However, misunderstandings regarding the cultural logic of the noken system can lead to unnecessary confrontations between law enforcement personnel and community members. If police personnel enforce procedures without understanding local customs, they risk delegitimizing indigenous practices or provoking tensions. Effective law enforcement in this context therefore requires cultural competence, dialogue, and sensitivity to community-based decision-making.

A major obstacle in enforcing legal norms within the noken system is the lack of adequate public understanding and socialization of regulations. Many indigenous communities are unfamiliar with formalized electoral procedures, particularly those written using bureaucratic or legalistic language. This lack of clarity contributes to

confusion on election day, as participants may not know who is eligible to represent their community or how to properly document collective decisions. Misunderstood procedures can lead to unintentional violations, which authorities may interpret as deliberate misconduct even when they arise from informational gaps. Socialization must therefore be treated as an ongoing obligation rather than a one-time campaign.

The challenges of documentation further complicate law enforcement efforts. Because noken voting is traditionally based on communal consensus, many outcomes are not recorded with the same level of detail as secret-ballot systems. When community agreements are verbal or symbolic rather than written, electoral officials face difficulties in verifying whether the vote count reflects genuine consent. A lack of documentation creates room for manipulation and contestation, especially when external stakeholders demand formal evidence. This vulnerability is magnified when local elites or representatives claim authority over collective decision-making without transparent mechanisms for accountability.

In practice, the absence of reliable documentation enables potential violations, including vote manipulation and discrepancies between reported results and actual voter participation. When no permanent record of deliberation exists, electoral actors can misrepresent outcomes, whether intentionally or unintentionally. Even when communities genuinely make decisions collectively, outsiders may find it impossible to confirm this without independent verification. Electoral disputes that arise from this opacity often undermine trust in the broader political system and are used rhetorically by critics to dismiss indigenous democratic models as illegitimate. Such tensions highlight the need to design documentation procedures that respect cultural practices while ensuring accuracy and traceability.

Differences in interpretation between customary communities and state institutions also contribute to friction. Indigenous groups may perceive the noken system as an authentic representation of communal will, rooted in leadership traditions and consensus-making. Government officials, however, are bound by legal principles that prioritize individual voting rights and standardized procedures. When state agencies declare that collective decision-making violates electoral law, communities may feel that their cultural identity is dismissed or invalidated. Conversely, when communities insist that their customary leaders represent everyone, state actors may view the process as coercive or undemocratic. Such conflicting viewpoints create structural pressure that cannot be resolved merely by enforcing statutory regulations.

The involvement of the police introduces additional layers of tension. While their mandate is to protect public safety, in practice police intervention may be interpreted as interference or disrespect toward local customs. Cases have emerged in which security forces attempt to enforce national electoral norms without adequate consultation or cultural sensitivity. These incidents damage relations between state and community actors, reinforcing perceptions that the government does not understand or respect Papuan traditions. For this reason, police training

must emphasize intercultural communication, ensuring that officers know when to intervene and when to defer to customary practices.

Improving law enforcement within the noken system requires collaborative efforts among government institutions, indigenous communities, and civil society stakeholders. Electoral regulations must be communicated clearly and repeatedly, using culturally appropriate formats that resonate with local populations. Training sessions, visual explanations, and community-led discussions can help bridge the gap between formal rules and customary expectations. When communities understand their legal rights and obligations, they are more likely to participate constructively and less likely to become targets of electoral manipulation.

Another necessary reform is the development of transparent documentation mechanisms that do not undermine indigenous traditions. Recording outcomes does not need to mimic Western-style ballot systems, but it must create reliable evidence that deliberations and decisions were legitimate. Community observers, independent monitors, or digital recording methods could be used to document results without eroding collective decision-making. This would give electoral supervisors concrete evidence while maintaining respect for local cultural expressions of consensus.

Legal certainty is a cornerstone of any democratic order, and its application in the noken system is essential to protect voter rights. Without clear legal guarantees, citizens may fear that their voices will be ignored or distorted, prompting them to disengage from the political process. Legal certainty reassures communities that their participation matters, regardless of whether they vote individually or collectively. When citizens feel protected, electoral legitimacy improves because outcomes reflect genuine participation rather than symbolic compliance.

Clear regulations are therefore indispensable for empowering communities and reducing conflict. Rules must stipulate how collective voting is conducted, who may represent the community, how results are counted, and how they are reported. When regulations remain vague or inconsistent, electoral disputes become inevitable. Confusion breeds suspicion, and ambiguity creates legal loopholes that opportunistic actors may exploit for political gain. The state must therefore establish firm legal frameworks that are accessible, culturally informed, and operationally realistic.

Legal certainty is also intimately linked to the protection of individual rights within collective decision-making. Even in communal voting traditions, every person must retain the ability to express their political preference freely. Mechanisms must exist that allow dissenting voices to be heard without social pressure or retaliation. Ensuring transparency in how decisions are reached—through open attendance, community forums, or participatory deliberation—helps guarantee that collective choices genuinely reflect the will of the group. If individuals feel silenced, the communal model loses legitimacy and becomes a tool of domination rather than solidarity.

Finally, legal certainty requires a reliable conflict-resolution process that is accessible to all. Communities must have a mechanism to challenge results or raise grievances if they believe their rights have been violated. This system must be transparent, free from intimidation, and logistically practical for remote populations. A fair dispute-resolution framework strengthens democratic confidence by demonstrating that the law can protect even the most vulnerable voters. When combined with culturally respectful approaches, such mechanisms reinforce the bond between indigenous traditions and national democratic institutions.hlm 4

CONCLUSION

This research emphasizes the importance of law enforcement and legal certainty in the noken election system in Papua. The noken system, rooted in tradition and customary values, enjoys strong cultural legitimacy, but in practice still faces challenges related to transparency, accountability, and the protection of people's voting rights. Without clear legal certainty, public participation can be reduced and the legitimacy of election results weakened. Therefore, strengthening regulations that accommodate customary values while guaranteeing democratic principles is an urgent need.

As a strategic step, more intensive dissemination of noken election regulations, transparent oversight mechanisms, and clear dispute resolution channels are needed to protect people's voting rights. By strengthening regulations, increasing the role of the General Elections Commission (KPU), Elections Supervisory Agency (Bawaslu), and law enforcement officials, and integrating local wisdom into formal regulations, the election system in Papua is expected to be more inclusive, fair, and representative. This research is also expected to contribute to the development of election policies based on legal pluralism and serve as a reference for studying the interaction between customary law and positive law in Indonesia.

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