

**Article History**

Received: 06 Feb 2025

Reviewed: 06 Jan 2026

Accepted: 12 Apr 2026

Published: 06 May 2026

The Existence of the Noken System in Simultaneous Elections in Pisugi District, Jayawijaya Regency

Noor Rahmad^{1*}, Eren Arif Budiman²¹ Faculty of Law, Universitas Muhammadiyah Gombong, Indonesia² Faculty of Law, Universitas Cenderawasih, Indonesia*correspondence email : noorrahmad@unimugo.ac.id**Abstract**

The aim of this study is to examine the existence of the noken electoral system in the 2019 elections in Pisugi District, Jayawijaya Regency. This study will further analyze the status of the noken electoral system within the national legal framework.

The study employs an empirical legal method, which involves observing actual conditions within the community.

The novelty of this research lies in the fact that indigenous communities must preserve the existence of the Noken electoral system, and the government must issue policies in the form of written regulations within the national legal system so that the Noken electoral system can become a democratic identity for indigenous communities in the mountainous regions of Papua.

The results of the study found that there is a necessity to urge the Constitutional Court to ratify the Noken Electoral System, which is a cultural heritage of indigenous communities that must be preserved and protected. When the Constitutional Court sets aside written prohibitions to uphold justice for indigenous communities still living in the mountainous regions, its philosophical principles are also reflected.

The conclusion of this study is that the government must issue written regulations regarding the Noken electoral system to serve as the foundation of the national legal system. Thus, by establishing written regulations regarding the Noken system, it will serve as a model for other regions in implementing electoral systems in accordance with their local wisdom.

Keywords: Democracy; Noken Elections; Indigenous Communities

Abstrak

Tujuan penelitian ini untuk mengetahui eksistensi sistem pemilu noken pada pemilu 2019 di Distrik Pisugi, Kabupaten Jayawijaya. Dalam penelitian ini akan menganalisis lebih jauh terkait keberadaan sistem Pemilu Noken dalam sistem hukum nasional.

Metode penelitian ini menggunakan metode yuridis empiris yaitu penelitian yang melihat apa yang terjadi dalam masyarakat.

Kebaruan penelitian yaitu masyarakat adat harus mempertahankan eksistensi sistem pemilu noken, dan pemerintah harus mengeluarkan kebijakan berupa peraturan tertulis dalam sistem hukum nasional agar sistem pemilu noken dapat menjadi identitas demokrasi bagi masyarakat adat di wilayah pegunungan Papua.

Hasil penelitian menemukan bahwa adanya keharusan untuk mendorong Mahkamah Konstitusi untuk mengesahkan Sistem Pemilu Noken, yang merupakan warisan budaya masyarakat adat yang harus dilestarikan dan dilindungi. Ketika Mahkamah Konstitusi mengesampingkan larangan

tertulis untuk menegakkan keadilan bagi kelompok masyarakat hukum adat yang masih hidup di wilayah pegunungan, unsur filosofisnya pun tercermin.

Kesimpulan dari penelitian ini pemerintah harus mengeluarkan peraturan tertulis terkait sistem pemilihan noken agar menjadi dasar sistem hukum nasional. Sehingga dengan membuat peraturan tertulis terkait sistem noken, akan menjadi contoh bagi daerah lain dalam menerapkan sistem pemilihan sesuai dengan kearifan lokal daerah mereka.

Kata Kunci: Demokrasi; Pemilu Noken; Masyarakat Adat

1. INTRODUCTION

The use of the noken system in the election until now there has been no in-depth study regarding who came up with the idea or concept regarding the use of noken in the election, also which ethnic group started it first and in what year it was used, which polling stations (TPS) used this system and which election organizers approved the use of noken in the election. However, based on information circulating among indigenous people, the use of noken in the election began with the spontaneity and initiative of several people who attended the stone-burning party, discussing and agreeing, what if the ballots were filled in the noken.¹

The activity of burning stones is a custom and tradition of the large Dani tribe in Papua. The Lani people call it "lago lakwi". In the tradition of burning stones there is a meaning of expressing gratitude to God, a symbol of togetherness and strong solidarity. Burning stones is a ritual of cooking together which aims to express gratitude to the giver of life, namely the Creator. In addition, it is also a means to establish relationships with family and relatives, welcome pleasant information, or gather troops in preparation for war against the enemy and or after the battle that has been carried out. In fact, this activity is a medium of peace between warring groups.²

This idea was then accepted by everyone present at the party, then further discussed and socialized by word of mouth to some areas of the Central Highlands Regency. Finally, tribal chiefs, traditional leaders and community leaders agreed to the Election using noken. Therefore, the Presidential and Vice Presidential Elections in several Central Highlands Regencies of Papua were carried out using noken. This is a little information about the origins of the Election process using noken carried out by the community in the Central Highlands region of Papua Province.³

On the one hand, the Noken system enjoys strong sociological legitimacy in the Papuan highlands due to its roots in the Bakar Batu tradition and customary agreements. However, on the other hand, this system lacks an explicit de jure legal basis in the Election Law or the General Elections Commission Regulation (PKPU), and is therefore often considered outside the bounds of national legal certainty. National election principles emphasize direct, universal, free, and secret (Luber) voting rights for individuals. Conversely, the Noken system often utilizes

¹ Zaimi Multazim, "Persinggungan Hak Budaya Dan Hak Politik Dalam Pemilihan Umum Dengan Sistem Noken Di Provinsi Papua," *SALAM: Jurnal Sosial Dan Budaya Syar'i* 3, no. 2 (September 9, 2016), <https://doi.org/10.15408/sjsbs.v3i2.3656>.

² Hasruddin Dute, "Integrasi Islam Dan Budaya: Studi Budaya Bakar Batu Masyarakat Papua Pegunungan Di Kota Jayapura," *Jurnal Ilmiah Ilmu Ushuluddin* 21, no. 1 (2022): 85–98, <https://doi.org/https://doi.org/10.18592/jiiu.v21i1.7279>.

³ Multazim, "Persinggungan Hak Budaya Dan Hak Politik Dalam Pemilihan Umum Dengan Sistem Noken Di Provinsi Papua," September 9, 2016.

acclamation mechanisms or community agreements through tribal chiefs, which are procedurally considered to violate the "one person, one vote" standard for maintaining social harmony.⁴

This is also strengthened by the Constitutional Court Decision which basically states that it does not have a problem with the voting system used by the Papuan indigenous people because the essence of the General Election process is that everyone can exercise their right to vote directly, freely, and secretly.⁵

This was also conveyed by Constitutional Justice, Prof. Dr. Achmad Sodiki, S.H., M.H., who said that the Constitutional Court can understand and appreciate the cultural values that live among the Papuan people who are unique in holding general elections by means and systems of 'citizen agreement' or 'acclamation', because if forced to use general election procedures in accordance with applicable laws and regulations, it is feared that conflicts will arise between local community groups. The Court is of the opinion that they should not be involved or brought into a system of competition and division within and between groups that could disrupt the harmony they have lived so far.⁶

There are still many groups of people who are dissatisfied because of the decisions taken, including the Constitutional Court Decision, on the basis of this Noken Election system. The Noken Election system makes regional heads in Papua not serious about developing their regions, because they will be easily re-elected through a small number of people voting on ballot papers that are much more than the actual number of voters. Moreover, when the number of fictitious votes is transferred to official forms and signed by election organizers in the region. When a dispute occurs in the Constitutional Court, the forms become irrefutable evidence.⁷

There are national demands for standardization of the election process to prevent manipulation or "fictitious votes."⁸ However, the geographic and sociological realities in Papua impose legal discretion. This creates a gap where the effectiveness of the Noken system often clashes with strict national legal accountability standards.

This research seeks to examine how the state can accommodate legal pluralism namely, recognizing the existence of the noken system as part of cultural identity without sacrificing universal legal certainty and democratic integrity. Is it possible to formalize noken into the national legal system without eliminating its communal values, or will noken forever remain an

⁴ Muhammad Malikul Lubbi, "Analisis Sistem Pemilihan Umum Noken Di Provinsi Papua Dalam Prinsip Demokrasi Dan Sistem Hukum Nasional," *Dharmasisya (Jurnal Program Magister Hukum Fakultas Hukum Universitas Indonesia)* 1, no. 2 (2021): 1–15.

⁵ Iryanto Irvan Jaya Rifka Alkhilyatul Ma'rifat, I Made Suraharta, "Demi Keadilan Berdasarkan Ketuhanan Yang Maha Esa Mahkamah Konstitusi Republik Indonesia" 2 (2024): 306–12, https://www.mkri.id/public/content/persidangan/putusan/putusan_sidang_81phpu_A.pdf.

⁶ Ima Rahmayani and Dodi Jaya Wardana, "Keabsahan Sistem Noken Dalam Pemilu Presiden Dan Wakil Presiden Ditinjau Dari Negara Hukum Dan Demokrasi," *UNES Law Review* 6, no. 2 (November 30, 2023): 4108–18, <https://doi.org/10.31933/unesrev.v6i2.951>.

⁷ Achbar Persada, "SISTEM NOKEN DALAM PEMILIHAN KEPALA DAERAH DI PAPUA," *INTERDISCIPLINARY JOURNAL ON LAW, SOCIAL SCIENCES AND HUMANITIES* 1, no. 2 (February 3, 2021): 54, <https://doi.org/10.19184/ijl.v1i2.22179>.

⁸ Oly Viana Agustine, "Implementasi Noken Sebagai Hukum Tidak Tertulis Dalam Sistem Hukum Nasional" 8, no. April (2019): 69–84.

"anomaly" tolerated only to avoid horizontal conflict?⁹

2. METHOD

This research is normative legal research. Its primary focus is on examining legal norms, legal principles, and the synchronization of laws and regulations related to election administration with specific real-world practices (Noken).¹⁰

To gain in-depth analysis, two main approaches were used:

Philosophical Approach: Used to explore the essence of democracy and justice within the Noken system. Is the essence of "the people's voice" better fulfilled through customary consensus or formal procedures?

Conceptual Approach: Used to develop a new understanding of the integration of local wisdom into the national legal system without violating the principle of legal certainty.¹¹

The analysis was conducted using two types of data sources:

Primary Legal Materials: Consisting of binding regulations, such as the 1945 Constitution (especially the article concerning customary law communities), the Election Law, Constitutional Court decisions regarding the Noken dispute, and the General Elections Commission Regulation (PKPU).

Secondary Legal Materials: Consisting of scientific literature, previous research results, legal journals, and expert opinions that provide explanations for the primary legal materials.¹²

The data obtained was analyzed qualitatively through:

Systematic Interpretation: Connecting one election regulation with another to identify any legal gaps or contradictions.

Philosophical Interpretation: Searching for the values of truth and justice underlying the Constitutional Court's decisions regarding Noken, in order to find common ground between legal certainty and social justice.

3. DISCUSSION

3.1. Noken System Election in Pegunungan Tengah Regency

Based on the facts on the ground, the entire process of the Presidential and Vice Presidential Elections in the Central Highlands Regency area uses the noken system. Except in Pegunungan Bintang, Paniai, Deyai and Dogiyai Regencies, the election does not use noken. Several Regencies that have used noken in the Presidential and Vice Presidential Elections since 2004 until now are Jayawijaya Regency, Yalimo Regency, Yahukimo Regency, Tolikara Regency, Central Mamberamo Regency, Lani Jaya Regency, Puncak Regency, Nduga Regency and Intan Jaya Regency. These Regencies can be called "noken system communities" or (KSN).¹³

The noken system community is a folklore community that has collective communalism

⁹ Waluyo Waluyo, "Model Pemilu Dengan Sistem Noken Berbasis Budaya Dan Kearifan Lokal," *Jurnal Hukum Samudra Keadilan* 13, no. 2 (January 9, 2019): 295–308, <https://doi.org/10.33059/jhsk.v13i2.1065>.

¹⁰ Agung Mahmud Hidayat, "Critical Review Buku 'Penelitian Hukum' Peter Mahmud Marzuki," 2013, 1–9.

¹¹ Hidayat.

¹² Erifendi Churniawan, "Penyusunan Proposal Penelitian Hukum," *METODOLOGI PENELITIAN HUKUM*, n.d., 88.

¹³ Waluyo, "Model Pemilu Dengan Sistem Noken Berbasis Budaya Dan Kearifan Lokal."

and customs such as having the same noken shape, geographically living in the mountains, valleys and hinterland with an average altitude of 3500 feet above sea level and so on. Until now there has been no in-depth study on who came up with the idea or concept of using noken in elections, also which ethnic group started it first and in what year it was used, which polling stations used this system and which election organizers approved the use of noken in the election process. However, based on interviews and information circulating among the community, the use of noken in elections began with the spontaneity and initiative of several people who attended the stone-burning party, while jokingly discussing and agreeing, what if the ballot papers were filled in noken.¹⁴

This idea was then accepted by everyone who attended the party. Then it was discussed continuously and socialized by word of mouth to some areas of the Central Mountains Regency. Finally, tribal chiefs, traditional leaders and community leaders agreed to the general election using noken. Therefore, the 2004-2014 Presidential and Vice Presidential elections in several Central Mountains Regencies were carried out using noken.¹⁵ However, it is acknowledged that since the process of expanding the Regency in the mountainous region, noken began to be used in general elections. Law number 22 of 1999 concerning Regional Government which was replaced by Law Number 32 of 2004 concerning Regional Government, ordered direct regional elections by the community, allowing the use of noken in general elections.¹⁶ According to Kaloh, in this era of reform and regional autonomy, the government and local communities are encouraging a direct democracy system, where people choose their leaders according to their conscience in wise and prudent ways.¹⁷ In several regencies in the mountainous region, the community has proactively and creatively encouraged a Papuan mountain-style noken system democracy).

Table 1: Districts that use noken and those that do not in the General Election

Number	Regency	2009 Legislative and DPD Elections	2009 Presidential & Vice Presidential I Election	2013 gubernatorial and deputy gubernatorial elections	Election of Regent and Deputy Regent	Implementa tion of District Elections
1	Pegunungan Bintang	No	No	No	No	2010
2	Yahukimo	Noken	Noken	Noken	Noken	2010
3	Jayawijaya	Noken	Noken	Noken	Noken	2008 & 2013

¹⁴ Zaimi Multazim, "Persinggungan Hak Budaya Dan Hak Politik Dalam Pemilihan Umum Dengan Sistem Noken Di Provinsi Papua," *STAATSRECHT: Indonesian Constitutional Law Journal* 1, no. 1 (January 30, 2017), <https://doi.org/10.15408/siclj.v1i1.4572>.

¹⁵ Multazim, "Persinggungan Hak Budaya Dan Hak Politik Dalam Pemilihan Umum Dengan Sistem Noken Di Provinsi Papua," September 9, 2016.

¹⁶ "UU No. 22 Tahun 1999 Dan UU No. 32 Tahun 2004," 2004, 1-3, <https://peraturan.bpk.go.id/Details/40768/uu-no-32-tahun-2004>.

¹⁷ Abdul Aziz Hakim, *Negara Hukum Dan Demokrasi Di Indonesia* (Pustaka Pelajar, 2011).

4	Yalimo	Noken	Noken	Noken	Noken	2011
5	Mamberamo Tengah	Noken	Noken	Noken	Noken	2013
6	Tolikara	Noken	Noken	Noken	Noken	2011
7	LaniJaya	Noken	Noken	Noken	Noken	2011
8	Nduga	Noken	Noken	Noken	Noken	2011
9	Puncak	Noken	Noken	Noken	Noken	2013
10	Puncak Jaya	Noken	Noken	Noken	Noken	2012
11	Intan Jaya	Noken	Noken	Noken	Noken	2012
12	Paniai	No	No	No	No	2012
13	Deyai	No	No	No	No	2013
14	Dogiyai	No	No	No	No	2013

Source: accessed from Waluyo, Election Model with Noken System Based on Culture and Local Wisdom, Samudra Keadilan Law Journal Vol 13 No 2 (2018), pp 295-308.¹⁸

Currently, Jayawijaya Regency has an area of 7030.66 km² and has 40 districts, 4 sub-districts and 228 villages. In the context of the 2019 presidential and vice presidential elections, the number of DPT used, the number of men is 110,138 people, the number of women is 101,127 people, the total number is 211,265 people. The number of PPD members for 40 districts is 200 people, and each district has five PPD members, namely one chairman and four members assisted by one secretary and technical or administrative staff. The number of PPS members for 228 villages and 4 sub-districts is 696 people, and each village has three PPS members, namely one chairman and 2 members. The number of KPPS members in Jayawijaya Regency is 4053 KPPS members, and each KPPS member is spread across 579 TPS.

Table 2: Number of DPT per District and per TPS according to Jayawijaya Regency for the 2019 Presidential and Vice Presidential Elections

Permanent Voter Data for Presidential Election									
No	Subdistrict	Total TPS	Number of Voters				Date of Birth Null (%)	Marital Status Nil (%)	Underage / Unmarried (%)
			M	W	Null (%)	Total			
1	2	3	4	5	6	7	8	9	10
1	Asologaima	15	2.218	2.216	0	4.434	0	0	0
2	Asolokobal	21	4.314	3.772	0	8.086	0	0	0
3	Asotipo	19	4.348	4.245	0	8.593	0	0	0

¹⁸ Waluyo, "Model Pemilu Dengan Sistem Noken Berbasis Budaya Dan Kearifan Lokal."

4	Bipiri	9	1.488	1.392	0	2.880	0	0	0
5	Bolakme	18	2.929	2.815	0	5.744	0	0	0
6	Bugi	14	2.482	1.750	0	4.232	0	0	0
7	Hubikiak	12	2.474	2.381	0	4.855	0	0	0
8	Hubikosi	15	2.788	2.988	0	5.776	0	0	0
9	Ibele	10	1.730	1.781	0	3.511	0	0	0
10	Itlay Hisage	12	1.826	1.820	0	3.646	0	0	0
11	Koragi	10	1.792	1.638	0	3.430	0	0	0
12	Kurulu	17	2.634	2.880	0	5.514	0	0	0
13	Libarek	7	1.231	1.236	0	2.467	0	0	0
14	Maima	15	3.138	3.026	0	6.164	0	0	0
15	Molagalome	12	2.329	2.194	0	4.523	0	0	0
16	Muliamia	21	2.731	2.956	0	5.687	0	0	0
17	Musatfak	10	1.690	1.755	0	3.445	0	0	0
18	Napua	14	2.569	2.330	0	4.899	0	0	0
19	Pelebaga	17	3.108	3.138	0	6.246	0	0	0
20	Piramid	16	2.842	2.794	0	5.636	0	0	0
21	Pisugi	12	1.953	1.691	0	3.644	0	0	0
22	Popugoba	9	1.940	1.996	0	3.936	0	0	0
23	Siepkosi	11	1.764	1.699	0	3.463	0	0	0
24	Silo karno Doga	14	1.795	2.188	0	3.983	0	0	0
25	Taelarek	12	2.067	1.999	0	4.066	0	0	0
26	Tagime	14	2.155	1.981	0	4.136	0	0	0
27	Tagineri	13	2.302	2.212	0	4.514	0	0	0
28	Trikora	9	1.643	1.456	0	3.099	0	0	0
29	Usilimo	12	1.974	2.019	0	3.993	0	0	0
30	Wadangku	6	1.185	1.023	0	2.208	0	0	0
31	Walaik	9	1.570	1.506	0	3.076	0	0	0
32	Walelagama	12	2.227	1.942	0	4.169	0	0	0

33	Wame	7	1.105	1.072	0	2.177	0	0	0
34	Wamena	69	18.612	13.949	0	32.561	0	0	0
35	Welesi	15	2.885	2.757	0	5.642	0	0	0
36	Wesaput	23	5.426	4.663	0	10.089	0	0	0
37	Wita waya	6	1.249	1.227	0	2.476	0	0	0
38	Wolo	12	1.902	1.575	0	3.477	0	0	0
39	Wouma	13	2.720	2.235	0	4.955	0	0	0
40	Yalengga	17	3.003	2.830	0	5.833	0	0	0
Total		579	110.138	101.127	0	211.265	0	0	0

Source: KPU of the Republic of Indonesia, accessed at.¹⁹

The data table displayed above is data from the Jayawijaya Regency KPU sent to the Republic of Indonesia KPU for the 2019 Presidential and Vice Presidential Election. This data is used by the Jayawijaya Regency KPU and especially Pisugi District for the 2019 Presidential and Vice Presidential Election. The table shows that there are 40 Districts in Jayawijaya Regency, one of the Districts that uses noken as election logistics is Pisugi District.

Pisugi District has seven Villages so that the total number of PPS is 21 PPS. The number of KPPS in each TPS is seven people, one person is the chairman and also a member and the other six are members. The number of KPPS is in accordance with the number of TPS, namely 12 TPS, so the number of KPPS is seven people multiplied by 12 TPS to 84 people.

It is known that Jayawijaya Regency is one of the parent Regencies in the central mountainous region that has long held elections in Villages using noken.²⁰ The community fills a number of election logistics both before and after the election in the noken. Before the Special Autonomy Law was enacted, the organizers had distributed logistics by filling logistics and then carrying them to each District and Village, because at that time the geographical conditions and infrastructure of roads and bridges were very minimal or even non-existent. Therefore, noken is seen as one of the prima donna and strategic tools that can fill several types of election logistics. However, there are also logistics transported by land transportation because several Villages already have very good road and bridge transportation.²¹

The implementation of the 2019 Presidential and Vice Presidential nomination process of the Republic of Indonesia is a means of political education for the community and a democratic party for the people of Pisugi District. Through elections, it can be seen how far the political

¹⁹ Oki Endrata Wijaya, "Kinerja Komisi Pemilihan Umum Dalam Penetapan Data Daftar Pemilih Tetap," *Jurnal Ilmu Pemerintahan* 2, No. 1 (2023): 64–72, [Http://Journal.Unbara.Ac.Id/Index.Php/Jipu/Article/View/1981](http://Journal.Unbara.Ac.Id/Index.Php/Jipu/Article/View/1981).

²⁰ Achbar Madya Persada, Iwan Rachmad Soetijono Jayus, and Iwan Rachmad Soetijono, "Sistem Noken Dalam Pemilihan Kepala Daerah Di Papua (Studi Putusan Mahkamah Konstitusi Nomor: 35/Php. Bup-XVI/2018)," *Interdisciplinary Journal on Law, Social Sciences and Humanities* 1, no. 2 (2021): 54–66.

²¹ Achbar Persada, "Sistem Noken Dalam Pemilihan Kepala Daerah Di Papua," *Interdisciplinary Journal On Law, Social Sciences And Humanities* 1, No. 2 (February 3, 2021): 54 <https://doi.org/10.19184/Ijl.V1i2.22179>.

awareness is to participate, to channel their aspirations in political life. However, in participating, are the people not intimidated by any party, which is the village head as the leader of the village community? The procedure for implementing voting follows the KPU rules, namely by marking the ballot paper as applicable in various regions.²² In several TPS, including 12 TPS in Pisugi District, voting is carried out in two ways, namely, 1) voters mark the ballot paper and then insert the ballot paper into the noken; 2) voters do not mark the ballot paper and directly insert the ballot paper into one of the noken that have been prepared at the TPS. Noken in Pisugi District is prepared two (two) noken according to the number of candidate pairs.²³

The Head of the Jayawijaya Regency KPU stated that the purpose of using noken was only to make it easier for people to vote, and because of the delay in election logistics to be brought to the polling stations. The committee was also overwhelmed, especially in delivering logistics to remote areas, it took two to three days to reach the location. Voting in this special way only applies to several polling stations inhabited by residents of the central highlands of Papua. This special policy was implemented to make it easier for Jayawijaya residents to participate in the election. After residents vote, they are required to dip their fingers in special ink to prevent re-voting at other polling.

3.2. The Existence of the Noken Election System in the Implementation of Simultaneous General Elections in Pisugi District

Pisugi District is one of 40 Districts of Jayawijaya Regency located north of Wamena, the capital of Jayawijaya. Pisugi District is a division of Kurulu District. Kurulu District is the parent District. Pisugi District was divided in 2011. The first District Head was Enos Kossay; the second District Head, Wanus Dabi; and the third District Head or the current Agus Ikiwaga Kossay. Pisugi District has seven Villages, namely, Aikhima Village, Akhiaput, Pabuma, Pisugi and Pikhe, Suroba, Wara. The existence of Pisugi District in the implementation of the general election to elect the President and Vice President of the Republic of Indonesia 2019, is divided into 12 TPS for the election process which is implemented using noken.

Table 3: Population in Pisugi District

No	Village Name	Total population		Total	Total of heads of families
		Man	Woman		
1	2	3	4	5	6
1	Aikima	509	554	1063	359
2	Akhiaput	250	365	615	153
3	Pikhe	361	349	710	345
4	Pisugi	340	670	1010	252
5	Pabuma	402	606	1008	252
6	Suroba	305	400	705	176

²² Ratna Riyanti and Fakhry Firmanto, "Pemilihan Kepala Daerah Melalui Pemilihan DPRD Berbasis Demokrasi Perwakilan," *Jurnal Pengabdian Masyarakat Dan Riset Pendidikan* 4, no. 1 (August 12, 2025): 3946–53, <https://doi.org/10.31004/jerkin.v4i1.2227>.

²³ Authority In et al., "The Forerunner of the Constitutional Court: The Development of Authority in Election Disputes to the Discovery of New Legal Principles" 24, no. 5 (2021): 223–31, https://ijbel.com/wp-content/uploads/2023/11/IJBEL24.ISU-5-805_.pdf.

7	Wara	279	431	710	177
	Jumlah	2446	3375	5821	1714

Source: Bapeda Jayawijaya Regency 2019.

Looking at the population of Pisugi District, it turns out that there are more females than males. There are 3,375 females and 2,446 males. The difference in comparison is 929 females in Pisugi District. The largest number of village residents is in Aikima Village, which is 1,063 people with 359 families. Meanwhile, the smallest number of village residents is in Akhiaput Village, which is 615 people with 145 families (KK). Pisugi District is geographically very close to the city of Wamena so that its population mobility is always changing, experiencing development or growth. One of the causes of population growth is the education factor, where the Pisugi District has built the Oikonomos Christian STIKIP campus which influences many students to come to study here.

The population of Pisugi District 74.80% (seventy four point eighty percent) earn their living from farming, namely owning and cultivating rice fields, gardening and traditional livestock farming, and traditional fish ponds. In addition, some residents earn modern living such as Civil Servants (PNS) and private sector as much as 8.48% (eight point four eight percent).

The implementation of the 2019 Presidential and Vice Presidential Election was carried out by members of the PPD, PPS and KPPS in Pisugi District, Jayawijaya Regency. In accordance with the Election Organizer Law and PKPU, the number of PPD members is 5 people, PPS members are 3 people and KPPS members are 7 people. Five PPD members at the District organizer level. Organizers at the Village level, each Village has three PPS members, so if Pisugi District has 7 Villages, then the number is 21 PPS. The number of KPPS in Pisugi District is 84 KPPS members divided into 12 TPS. Each PPD, PPS and KPPS member is assisted by one secretary and administrative staff at each level of the organizer. The following are the names and positions of PPD, PPS and KPPS members in Pisugi District, Jayawijaya Regency, organizers of the 2019 Presidential and Vice Presidential Election.

Table 4: Election Organizers or District Election Committee (PPD) of Pisugi District

No	Name of PPD	Position
1	Hemson Oagay	Chairman
2	Marius Kossay	Member
3	Edison Oagay	Member
4	Agustinus I. Kossay	Member
5	M. Rosario Oagay	Member

Source: Marius Kossay, member of the PPD Pisugi District, Jayawijaya Regency, 2019

Table 5: Election organizers or PPS at the village level

No	Cahirman	Member	Village
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1	2	3	4
1	Gabriel marian	Henky oogay Herman oogay	Pikhe
2	Nori lokobal	Yusuf lokobal Selfi heselo	Akhiaput
3	Yunus marian	Naman Marian Titus Pabika	Aikima
4	Dam kossay	Alex Wilil Otto Doba	Pabuma
5	Kalisius hilapok	Alex Kossay Hermanus Himan	Suroba
6	Edy wantik	Niko Siep Yosep Siep	Wara
7	Daniel kossay	Yunus Aogay Wayus Matuan	Pisugi

Source: Marius Kossay, member of the PPD Pisugi District, Jayawijaya Regency, 2019

Table 6: Names of election organizers at the KPPS level at TPS

No	Ketua	Jumlah anggota	Kampung
1	Andi kossay	Ada 6 orang anggota dan 2 satpam	Pisugi
2	Frans marian	Ada 6 orang anggota dan 2 satpam	Pikhe
3	Sariyo itlay	Ada 6 orang anggota dan 2 satpam	Akiaput
4	Yosep doga	Ada 6 orang anggota dan 2 satpam	Pabuma
5	Marcel huby	Ada 6 orang anggota dan 2 satpam	Suroba
6	Ely marian	Ada 6 orang anggota dan 2 satpam	Aikima
7	Pilatus himan	Ada 6 orang anggota dan 2 satpam	Wara

Source: Marius Kossay, member of the PPD Pisugi District, Jayawijaya Regency, 2019

Article 43 paragraph (1) of Law Number 15 of 2011 concerning the implementation of elections states that one of the functions of the PPS is to organize elections at TPSs formed in each village or sub-district. Therefore, PPS members in Pisugi District coordinate with parties involved in the 2019 Presidential and Vice Presidential elections of the Republic of Indonesia in

Jayawijaya Regency.

In the implementation of the 2019 Presidential and Vice Presidential elections in Pisugi District, Jayawijaya Regency, there are four (4) parties that play an important role in socializing the elections to the community, namely: The role of the Traditional Community Institution (LMA), The role of the Church, The role of the Young Men and Women, and The role of Mothers. These four communities or organizations intervene in the community and appeal to the community so that the general election in Pisugi District can run safely, orderly and smoothly.

According to Kornelis Oagay, one of the traditional figures of Pisugi District, said that the noken system election is very practical and simple. There is no need to wait a long time to get logistics, especially in remote areas such as Anggruk, Paspale, Mamberamo and other areas far from Wamena city. Therefore, people living in the interior use noken as one of the means in the general election.²⁴

Regarding the implementation of the noken system election in Pisugi District, Marius Kossay, who at that time was a member of the Pisugi District PPD stated that: The implementation of the 2019 Presidential and Vice Presidential Election of the Republic of Indonesia in Pisugi District is running according to the wishes of the community, where each voter exercises their constitutional rights granted by law with full responsibility. It was said that "we want the implementation of the noken system election in Pisugi District to run well, smoothly and safely."²⁵

The explanation above emphasizes the value of each person's freedom to determine and choose a candidate according to their conscience. Because the location of each TPS in Pisugi District is close to the highway, in using the noken system people can see directly and do not have to rely on the orders of a big man. The voters spread across 7 villages and 12 TPS in Pisugi District have met the requirements of the Election Organizer Law, namely being over 17 years old and not yet 17 years old but married. The number of voters registered in the DPT are all domiciled in Pisugi District. Voters at the time of the election have used their voting rights and then entered into the noken. The number of male voters in Pisugi District is 1,953 people and female voters are 1,691 people, a total of 3,644 people. The table below states the number of DPT per Village in Pisugi District.

Table 7: Number of Permanent Voters List (DPT) Pisugi District, Jayawijaya Regency 2019

Permanent Voter Data for Presidential Election									
No	Village Name Sub-district	Total. TPS	Number of Voters				Date of Birth Nil (%)	Marital Status Nil (%)	Underage/ Unmarried (%)
			M	W	Null (%)	Total			
1	2	3	4	5	6	7	8	9	10
1	Aikima	2	273	239	0	512	0	0	0
2	Akiaput	2	311	231	0	542	0	0	0

²⁴ Oagay, K. (2019, September 30). (d. s. Wawancara, Interviewer)

²⁵ Kossay, M. (2019, September 17). Wawancara dengan anggota PPD Distrik Pisugi.

3	Pabuma	2	304	274	0	578	0	0	0
4	Pikhe	2	298	269	0	567	0	0	0
5	Pisugi	1	215	218	0	433	0	0	0
6	Suroba	2	282	261	0	543	0	0	0
7	Wara	1	270	199	0	469	0	0	0
	total	12	1.953	1.691	0	3.644	0	0	0

Source: KPU of the Republic of Indonesia accessed via www.kpu.go.id

In the noken system election in Pisugi District in the 2019 Presidential and Vice Presidential elections, there are two ways of noken positioning when voting, namely, first, the noken is hung on the chest or neck of a person who has been appointed by the candidate or the campaign team of one of the candidates. The person appointed to hang the noken on his chest or neck is the campaign team and witness of one of the 2014 Presidential and Vice Presidential candidates; Second, the noken is hung on wood that has been stuck in the ground. There is also a TPS in the building, so the noken is hung on a nail in the building wall. Above the noken are attached the names and photos of each candidate or presidential and vice presidential candidate for 2019.

Figure 1: Two noken are hung on a piece of wood that has been stuck in.



Source: Marius Kossay, Member of the Pisugi District PPD, April 17, 2019.

The mechanism for providing ballots to the candidates for President and Vice President of the Republic of Indonesia in 2019 is, one of the KPPS members is appointed to call the name of the voter according to the name in the DPT and inform him that after receiving this ballot, it is taken to the voting booth and pierced or marked using the tool provided in the voting booth. After being marked in the voting booth, it is immediately inserted into the noken provided by the KPPS.²⁶

The informant explained that the noken that has been provided is open so that each voter can insert their ballot into the noken and witnessed directly by the people present during the election. Here the public can ensure who voted for whom and put it in whose pocket. The author states that the noken system election is LUBET (Direct, General, Free and Open, not LUBER (Direct,

²⁶ Muhammad Malikul Lubbi, "Analisis Sistem Pemilihan Umum Noken Di Provinsi Papua Dalam Prinsip Demokrasi Dan Sistem Hukum Nasional," " *Dharmasiswa* " *Jurnal Program Magister Hukum FHUI* 1, no. 2 (2021): 25.

General, Free and Secret). The granting of voting rights in Pisugi District is different from several other mountainous districts. Pisugi District's voting mechanism as explained above is the hanging system. But other areas in the mountains use the big man system. The big man system is carried out by submitting all votes to the tribal chief. Both systems, both hanging and big man, are fair and safe according to the wishes of the community, because they are in accordance with the beliefs and customs of the people in the mountainous region of Papua.

3.3. Legal Standing of the Noken System Election in Pisugi District

Noken is currently being debated and disputed in the general election, especially in the trial of the results of the 2019 Presidential and Vice Presidential elections, which were held in several regencies in the mountainous region of Papua. This noken system election has caused many pros and cons from various groups of people throughout the archipelago, regarding the legal basis for the noken system election. Therefore, the public can actually know, understand and realize that the legal basis for implementing the noken system election which has been implemented in several mountainous regencies in Papua. The laws and regulations and the results of the Constitutional Court's decision are a strong legal basis and an indicator of the noken system democracy process in the Pisugi District community, Jayawijaya Regency. The following author can present the noken system election with the construction of noken constitutional argumentation in the legal, sociological, anthropological, moral and philosophical perspectives of the legal standing of the Pisugi District community in the noken system election. The laws and regulations that can be explained below justify the legitimacy of the Pisugi District community in the noken system election.

The 1945 Constitution Article 18B, paragraph (2), Article 28I paragraph (3), Article 32 Paragraph (1) Paragraph (2) explains that: a) Article 18B, paragraph (2): The state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law; b) Article 28I paragraph (3): Cultural identity and the rights of traditional communities are respected in accordance with the development of the times and civilization; c) Article 32: Paragraph (1): The state advances Indonesian national culture amidst world civilization by guaranteeing the freedom of society to maintain and develop its cultural values. Paragraph (2): The state respects and maintains regional languages as national cultural wealth.

The 1945 Constitution does not contain any noken system election, but the articles and verses in the Constitution explain the rights of traditional communities; the cultural identity of traditional (customary) communities. The development and maintenance of cultural values as the rights and cultural identity of traditional communities referred to in the 1945 Constitution if interpreted here is noken. Because noken is one of the elements of Indonesian cultural artifacts owned by the mountain communities in Papua. Noken as a system of values and wisdom of local communities and one of the copyrights of traditional communities.

The Constitutional Court has made many decisions regarding disputes over vote acquisition in regional head and deputy regional head elections, the DPR, DPD and DPRD in

several mountainous regencies that adopt the noken system of elections. In the context of this discussion, the author focuses on two decisions regarding vote acquisition disputes from dozens of Constitutional Court decisions, namely the 2009 Yahukimo legislative election and the 2014 Presidential and Vice Presidential election of the Republic of Indonesia, as explained below.

In the decision of the trial Number 47-48/PHPU.A-VII/2009 concerning the results of the Yahukimo Regency Legislative Election, it was the beginning of the recognition and validation of the noken system of elections in several mountainous regencies. The Constitutional Court's considerations as written in the legal considerations with its decision Number. 47-48/PHPU.A-VII/2009, on June 9, 2009, above reads:

"Considering that the Court can understand and appreciate the cultural values that live among the Papuan people who are unique in holding general elections by means or systems of "citizen agreement" or "acclamation" that have been accepted by the Yahukimo community, because if general elections are forced according to the applicable laws and regulations, it is feared that conflicts will arise between local community groups. The Court is of the opinion that it is better for them not to be involved/brought into a system of competition/division within and between groups that can disrupt the harmony that they have lived."

The Constitutional Court's decision as explained above strongly emphasizes that the Constitutional Court recognizes the "noken" system as a legitimate method in the General Election, especially for the Yahukimo community whose customs are still very strong as part of the constitutional recognition of the unity of the legal community that is still alive. The Constitutional Court can understand and appreciate the cultural values that live among the Papuan community which are unique in holding general elections by means and systems of "citizen agreement" or "acclamation", because if forced to use general election procedures in accordance with applicable laws and regulations, it is feared that conflicts will arise between local community groups.

The UN international organization, ILO Convention No. 169 on Indigenous and Tribal Peoples, in Article 2 paragraphs 1 and 2b explains that: a) Article 2 paragraph 1: The government has the responsibility to develop, with the participation of the indigenous and tribal communities concerned, coordinated and systematic action to protect the rights of indigenous and tribal communities, to ensure respect for their integrity; b) Article 2 paragraph 1b: Strive for the full realization of the social, economic and cultural rights of these indigenous and tribal communities with respect for their social and cultural identity, their customs and traditions, and their institutions.

In Article 1 letters p and g, Law Number 2 of 2021 concerning Special Autonomy for Papua Province related to law and indigenous peoples, it is also explained that: a) Letter p, customary law is an unwritten rule or norm that lives in the customary law community, regulates, binds and is maintained, and has sanctions; b) in letter q, it is explained that the customary law community is a native Papuan citizen who since birth has lived in a certain area and is bound and subject to certain customary laws with a high sense of solidarity among its members. In the Law as described above, the word noken is not used in general elections. However, it is interpreted that

the context and understanding of Article 1 letters p and q indirectly indicate the possibility of a customary law community encouraging its valuable and meaningful local wisdom to support its activities in responding to its legal and cultural needs, responding to the need for protection of its cultural traditions, responding to the need for preservation of its customs or culture within the framework of the unity of the Republic of Indonesia. One interpretation is that the need for the preservation of noken is raised through general elections or noken system elections.

Decree of the Papua Provincial General Election Commission number 01/KPTS/KPU. Prov. 030/2013 concerning technical instructions for voting procedures using noken as a substitute for ballot boxes. It is realized that the Papua Provincial KPU does not have the authority in the Law to make technical regulations for the implementation of elections, but in coordination with the KPU of the Republic of Indonesia, it has issued a decree on the noken system election in several regencies in the mountainous region of Papua. Therefore, several regencies in the mountainous region implemented the noken system election. This means that in the decree of the Provincial KPU letter, noken has been decided as a substitute for logistics or ballot boxes for the election of the Governor and Deputy Governor at that time in 2013. In the 2019 Presidential and Vice Presidential elections, Noken has also been used as a substitute for logistics as described above.

Noken is included in the international world heritage culture which has received recognition from UNESCO regarding Noken. On December 4, 2012, it was decided that NOKEN was included as an intangible world cultural heritage by UNESCO in France, by Arley Gill as Chair of the Committee, which aims to protect the customs and culture of the Dani tribe".

UNESCO's recognition of noken has nothing to do with the context of elections, but the value, meaning, function and philosophy of noken itself has become a symbol of the noken system election which has truly influenced the democratic process in Papua. This means that noken is identical to the symbol of identity and character of the Papuan people, so indirectly the noken system election also elevates the identity and character of the Papuan people.

The Pisugi District Community, Jayawijaya Regency, held the 2019 Presidential and Vice Presidential elections using the noken system. This experience is reflected in the 1945 Constitution as explained in the decision of the Constitutional Court of the Republic of Indonesia, which has been explained above. The points in the explanation above are indicators of the recognition of the Constitutional Court to legalize the noken system election which can be seen in the decisions of the Constitutional Court regarding disputes over the results of the general election votes which were contested by the applicant in a number of trials in Constitutional Court.

In addition to the Constitutional Court's decision as explained above, another basis for the decision is as explained by Kaelan that democracy in Indonesia as stated in the 1945 Constitution, in addition to recognizing freedom and equal rights, also recognizes differences and diversity considering that Indonesia is a *Bhinneka Tunggal Ika* society. This means that *de facto* and *de jure* the State of Indonesia is a plural, multiethnic or multicultural country that has differences that must be recognized both by the minority and the majority (MD, 2006). This is very important because the welfare, justice, and peace of a society are achieved without conflict and differences. Differences are good but there should be no conflict that causes the lives of community members

to be victims. This is not desired by the State.

This perspective dominates the Constitutional Court's decision to grant the noken system election which is a cultural heritage of indigenous peoples that must be preserved and maintained. Therefore, over time as a form of regulation in the development of the era, it is necessary to receive recognition and be stipulated in modern legal regulations, because it cannot be denied that in the history of the formation of modern law, customary law or traditional law has always been an indicator for compiling a law in a country. Customary law always experiences changes and shifts in values and meanings due to advances in information, technology, development and globalization as well as modernization. The explanation above is relevant to Soemitro's opinion that law actually displays the characteristics of customary or traditional law and the characteristics of modern law.

Yanis Maladi explained that customary law in Indonesia is seen as a source of national law formation, because it is the embodiment of the original law of the Indonesian nation. Thus, the government should not only pay attention to formal law, but also moral values. This explanation is to explore the existence of customary law in the constitution of the Indonesian nation from the beginning of independence to the reform era (Maladi, 2010).

4. CONCLUSION

The conclusions of this study indicate that the existence of the noken electoral system in Pisugi District, Jayawijaya Regency, possesses strong sociological and cultural legitimacy as part of the local wisdom of indigenous communities that uphold the values of solidarity, trust, and social harmony, and has proven capable of facilitating community political participation in areas with geographical and infrastructural limitations. However, from a national legal perspective, the noken system still faces challenges because it lacks a clear written legal basis, which could potentially lead to legal uncertainty and deviations from the principles of direct, universal, free, and secret elections. Nevertheless, implicit recognition through Constitutional Court rulings and constitutional guarantees of indigenous peoples' rights indicate that there is room for the recognition of this system within the framework of legal pluralism. Therefore, this study emphasizes the importance of state intervention through the establishment of comprehensive written regulations to accommodate the noken system within the national legal system without eroding its inherent cultural values, thereby creating a balance between legal certainty, substantive justice, and respect for the cultural identity of indigenous communities.

5. ACKNOWLEDGEMENT

The author would like to express his gratitude to those who have helped in completing this journal. The author would like to express his gratitude to Cenderawasih University and Muhammadiyah University of Gombong who have provided moral and material support to the author in the process of completing this research. The author would also like to thank fellow authors who have provided assistance in writing this article so that it can be completed properly. The author would also like to thank the manager of the justisi journal who has given the opportunity to publish this research so that it can be read by all readers for the advancement of science, especially in the field of law.

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