

NOKEN ELECTORAL SYSTEM IN PAPUA DELIBERATIVE DEMOCRACY IN PAPUAN TRADITION¹

SISTEM PEMILU NOKEN DI PAPUA: DEMOKRASI DELIBERATIF DALAM TRADISI ORANG ASLI PAPUA

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Abstract

Studies of the noken system from the legal approach have been thoroughly investigated, particularly in the 2009 and 2014 elections and the 2014 presidential election in Papua. Several studies of state's law explain that the noken system is legitimate according to Indonesian laws due to cultural characteristics of Papuan following Melanesian traditions. Different from those studies, this paper examines the noken system according to Habermas' theoretical framework of deliberative democracy. This study argues that the noken system is strongly powerful as various cultural communities of native Papuans discuss it. The discussions are discursive practices and contestations to determine political decisions, such as certain political figure or political party to be voted in the election. The essence of the noken system is, therefore, a community's participation via consultations and discussions in deciding political choices collectively. Using literature review, the author discusses the implementation of the noken system in Papua province related to the concept of deliberative democracy. Findings indicate that the implementation of noken system reflects the practices of deliberative democracy, proposed by Habermas, at the village community level. In some cases, however, Papuan elites, who unilaterally decide all votes without any discussions and consent of their community, manipulate the noken system. Theoretically, the noken system shows that democracy is not only legislative procedures, but also an art of maintaining collectivism and social integration.

Keywords: noken system, deliberative democracy, Melanesian tradition, cultural democracy

Abstrak

Studi-studi mengenai legalitas penggunaan sistem noken dalam Pemilu 2009 dan 2014 dan pemilihan presiden 2014 di Papua telah banyak dilakukan. Beberapa studi menyatakan bahwa sistem noken tersebut sah dalam sistem hukum Indonesia karena menyesuaikan dengan karakteristik budaya orang Papua yang mengikuti tradisi Melanesia. Berbeda dengan studi tersebut, tulisan ini melihat sistem noken dalam perspektif demokrasi deliberatif Habermas. Studi ini berargumen bahwa sistem noken masih sangat kuat karena banyak didiskusikan oleh berbagai komunitas budaya orang asli Papua. Musyawarah dalam sistem noken merupakan praktik diskursif dan kontestasi untuk menentukan keputusan politik, seperti kandidat atau partai politik dalam Pemilu. Inti sistem noken adalah partisipasi masyarakat melalui konsultasi dan diskusi dalam menentukan pilihan politik secara kolektif. Dengan tinjauan pustaka, artikel ini membahas pelaksanaan sistem noken di Provinsi Papua terkait konsep demokrasi deliberatif. Temuan penelitian menunjukkan bahwa penerapan sistem noken menggambarkan praktik demokrasi deliberatif di tingkat masyarakat desa. Namun, dalam beberapa kasus, sistem noken dimanipulasi oleh elit Papua, yang secara sepihak memutuskan semua suara tanpa adanya diskusi dan persetujuan dari komunitas. Secara teoritis, sistem noken menunjukkan bahwa demokrasi bukan hanya prosedur legislatif, tapi juga seni dalam menjaga kolektivisme dan integrasi sosial.

Kata kunci: sistem noken, demokrasi deliberatif, tradisi Melanesia, budaya demokrasi

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Introduction

A general election using the noken or popularly known as the noken system, is the opportunities of a tribal chief or a prominent tribe figure to be granted with authorities to represent his or her whole community. Within the noken system, the vote is decided through a convention determining certain political parties or candidates. Such electoral system can be observed in particular district (*kecamatan*) and *regencies* (*kabupaten*) in the area of Pegunungan Tengah Papua, which is utilized in the elections of provincial governor and regency heads (*bupati*) and of congressional members of each level of Representatives' houses. The noken system has created a prolonged debate since the political reform in 1999 due to legal reasons. This system contradicts the Indonesian election law allowing only one man for one vote. However, for many Papuans, election is not only a political process, but also a cultural phenomenon leading to a social process (Sodiki, 2009: 1-2). Therefore, the practices of election should be adapted to their cultural traditions. Azim and Siregar (2014: 94) said that some adat customary law forbids individual political decisions, so they need to make communal decisions through open public consultations. The adoption of the modern law in many countries turns out frequently to be incompatible with the cultural conditions of customary communities. For example, the application of American law onto the communities of Micronesian Islands in Pacific has caused much suffering to local people for there is an unbridgeable gap between their customary law and the modern law. The law, which has been appropriate to the culture of Americans, turns out to be not suitable to the Micronesian culture (Maladi, 2010: 451).

Approaching the simultaneously local head election in 2017 and 2018, including Papua Province, the debate on noken system rises again. Vulnerability index of local election demonstrates that some elections of local heads in Aceh and Papua are vulnerable of political violence. In this issue, noken system is claimed by some legal expert as one of several causes of political violence during the elections in Papua.² Therefore, this paper aims to describe to what extent the noken system can bring the peace and

²<http://nasional.kompas.com/read/2014/02/11/0836299/Noken.dan.Ikat.Praktik.Adat.dan.Kerawan.Pemilu>.

act as the bridge between traditional and modern political system.

Studies on the noken system have been conducted for some time from a formal legal perspective. Those studies examine whether the utilization of the noken system is acceptable based on the Indonesian Constitution and other laws on general election (Arizona, 2010; Hadi, 2013; Maladi, 2010; Sastika&Widodo, 2015). Most of those studies argue that such a particular electoral system is legal before the law. The sections 1 article 18 b of the 1945 Indonesian Constitution says: "the state recognizes and respects regional governmental units, which are exclusive in nature and they are under particular regulations." In addition, section 2 indicates, "the state knows and respects customary law community groups along with their traditional rights as long as they live by the social development and principles of the Indonesian Republic Unitary State as ruled by statute." Since the noken system is used in Papuan Province with a special autonomy status, it is regarded legitimate. The Indonesian Constitutional Court has even stipulated the legitimacy of the noken system as a recognition over the local wisdom lived by customary communities in Pegunungan Tengah. The stipulation is explicated within the Court's verdict No. 47-48/PHPU A-VI/2009 on the mechanism of the noken system use in Papua, on June 9, 2009, over the case of the Yahukimo regency electoral dispute in 2009.

Different from those legal studies, this study focuses on the meaning of the noken system within the cultural traditions of Papuan natives. Some people say that the system came from outside of Papua, and Papuan natives of mountainous areas have to adapt themselves to an electoral system. Nevertheless, some other indicates that the substance of the noken system is characteristic of Melanesian tribal traditions emphasizing collective action of the community in politics. In fact, some elites manipulate the system that result into undermining the Melanesian cultural values and the legitimacy of such an electoral system as a democratic procedure.³ To comprehend the meaning of the

³Melanesian here refers to all the native tribal or ethnic groups in Papua land. Besides the physical characteristics such as curly hair and relatively black skin, the main identity of Melanesian can be observed from their collective ownership of

noken electoral system, this paper uses the deliberative democracy theory elaborated by Habermas for assessing to what extent general election manifests reasonable discourse, public opinion formation and the spread of political participation.

Theoretical Framework

The word "democracy" comes etymologically from the Greek *a particular*. It is a compound word, composed of *demos* meaning "people" and *Kratos*"power." In a literal way, democracy refers to a governmental system in which the people are the holders of the supreme sovereignty. President Lincoln defines democracy as a government regime, which is from the people, by the people and for the people (Lincoln, 2009). The people's sovereignty and the accountability of the government before its inhabitants are two fundamental characteristics of democracy (Zevedai, 1956: 12). In its development, democracy is given with various meanings and definitions, but the "supreme power held by the people" is the primary indicator to be assured that a political system is a democracy.

Robert Dahl (1992: 161) describes a democratic political system as one in which all members regard themselves and others as being at the same position and status in politics for every one of them is equally sovereign, holds equal power and is an institution necessary to govern themselves. According to him, the democratic indicators of a state are: (a) the government is run according to established laws such as legislations and constitutions; (b) the governmental process is under a real control of the society, the presence of a general election which is free, periodic and enabling each citizen to vote and be voted; (c) the existence of majority principle; and (d) the warrant over the democratic civil society rights in political, economic, social and cultural realms.

Democracy is always compared in its discourse with the non-democratic system. Huntington (1995: 5) mentions non-democratic governmental systems such as absolute monarchy, bureaucratic kingdom, oligarchy, aristocracy, regimes with the limited general election, personal despotism, communist and fascist

land and the use of communitarian way in decision-making.

regimes, military dictatorship. Furthermore, such governmental system have several limitations, including no electoral system for a power succession, the absence of electoral justice, the extreme restriction over political parties, and no freedom of the press. Referring to Schumpeter, Huntington gives a categorization of democracy according to their procedural system, i.e. a definition of freedom considering the general election feature. Such definition is oversimplified, for democracy should contain larger and idealistic connotations.

Huntington (1995: 5) accentuates more on modern methods that are institutional procedures for gaining political decisions that individuals influence the decision-making through a competitive struggle in winning people's votes. Both Huntington and Dahl base their definition of democracy on its procedural system, i.e. general election which is fair, and they set general election as the primary indicator to decide if a state is democratic or not. If the general election is the essence of democracy, it is then that the departure point of the democratic process is the replacement of the non-democratic political regime with a government voted democratically. Procedural democracy is frequently defined as a political process characterized by the translation of individual judgment into sound decisions. It is confronted against substantive democracy that includes substantial justice principles (Dowding et al., 2004: 19).

The experiences of British democracy indicate that in reality, it is not the general election giving people the opportunity to manifest their power; but it is the political parties connecting themselves to the people's desire (Iver, 1984: 179). Dahl (1992: 33) insists that general election is both the political institution and practice that make possible the formation of a representative government that becomes the ideal and maximal manifestation of a democratic government in the modern era. General election functions as a means for gaining political legitimacy, political representation, running the power elite circulation, and providing political education for people (Haris, 1998: 7-10). In theory, political parties participating in general election function to make sure that there are representation, conversion and aggression, integration, leadership appointment, consideration and formulation of

policies, and control over the government (Macridis, 1988: 27).

The people's sovereignty as the essence of democracy can come true if the deliberative democracy becomes the basis of social interactions. Deliberative democracy theory analyses the ways political decisions are made and how those decisions are effectuated so that citizens obey them voluntarily. One among the core concepts of deliberative democracy is the reasonable discourse, i.e. forms of the communicative act with validity claim as the problem base. It means that some reasonably accurate and factual evidence should support an argument discussed. In a rational discourse, an argument should be based on logic, ethics, or other justified basis (Hardiman, 2009).

Habermas distinguishes powers into official and communicative ones. The administrative authority vested in political institutions is not a subject that controls the society, but merely a differentiation of social acts. Communicative power shows the sovereignty of a social unit; such sovereignty would develop through speaking and working one to another. Communicative power is formed by an unreformed public sphere and springs from a thoroughly intersubjective structure of an undistorted communication (Hardiman, 2009). Political power, in Habermas' perspective, is fundamentally discursive for it is an aspect of human acts. Such a power is not concentrated in political institutions or a group of persons, but is situated within antihuman acts and diverges onto all over the society.

A democracy can be named deliberative if the reasoning process of a public policy is examined first through a public consultation or in Habermas' word through a public discourse (Hardiman, 2004). In deliberative democracy, individuals are active as citizens to communicate in such a way that has its effects on the public decision-making inside a political system (Hardiman, 2005). The political regime uses different language from the civil society; therefore, the communication standards in the political system need to be fully understood in order to comprehend the citizens' aspirations.

Formation of opinion and use of people sovereignty are two fundamental notions of deliberative democracy. Habermas (1992: 54) assumes that a legalist state cannot be maintained without a radical democratic political

system. Habermas (1992: 54) offers a democratic model enabling people to participate in the making of legislations and political policies. Such democracy assures that the civil society is involved fully in the law making through discourses. However, this democracy is not as the moral republic of Rousseau, where people are directly legislators. The most determinant in deliberative democracy is the law formation procedure, in which the law information is influenced by dynamic discourses within the society. In the perspective of such democracy, the state is no longer the only party making the law and political policies in a public sphere. Mass media and civil society organizations also have roles in making the laws and public policies. The public arena becomes thus an area for negotiations for preparing and directing legislations discursively.

The use of people sovereignty in deliberative democracy is an effort in making people freedom a communication process. Along with the state's and the capital's powers, is formed a communicative power through networks of civil society public communication (Suseno, 2004: 3). Media, press, non-governmental organizations, mass organizations and other institutions hold communicative power of civil society. Those institutions participate in the public sphere through the discourses production, where the state and its power apparatus are forced to be responsive to civil society discussions expressed in the public domain. The question is: when is it that the people hold their sovereignty? In the perspective of deliberative democracy, freedom is extant not because people gather along with their bodies at a certain place, as Rousseau thinks, but it is due to the presence of public communication. In such context, a representative democracy is still needed, but it is viewed through a different point, i.e. in order to assure that the role of communication becomes more and more significant.

Habermas develops a democratic model sensible to contexts, the one that takes into account changes that occur within the society. In the words of Hardiman (2009), democracy cannot be implemented into complex societies. Democratization has to grow within the society and has its internal forces as its propulsion. The deliberative democratic model has the following characteristics: (a) the importance of argumentation, (b) participant inclusiveness, (c) freedom from

being forced, and (d) consensus. The procedure of such model includes the unorganized and informal formation of opinion within the civil society.

Deliberative democracy can be understood according to communitarian perspectives (Muzaqqi 2015: 133-135). Democracy generally can be observed in two different level, cultural and procedural. On the cultural level, democracy is a part of everyday life culture or *fatsoen* reflected in tolerant, open, egalitarian, mutual trust, responsible, etc. On the level of political procedure, democracy is a mechanism of decision making, the way to select leaders, and the articulation of public interest. In the liberal democracy, contestation, liberalization and participation based on individualism and individual freedom. However, in communitarian democracy are based on communalism. In deliberative democracy, the mechanism of voting to select a leader or a public decision is not via voting or representative consultation, but via direct participations involving the whole members of community such as consultations, dialogues, or discussions.

This paper is based on the qualitative approach by exploring the case of noken election system in Papua. Data were gathered from literature studies and interviews in Jayapura. Firstly, the issue of noken election in Papua was investigated through mass media. Then, some articles on deliberative democracy were reviewed. After that, cultural dimensions of noken and historical aspects of the noken election system were identified. Some interviews on social practices of noken election system were conducted during a visit to Jayapura in 2015. Finally, all findings were analyzed by using deliberative democracy as a theoretical framework.

Findings

• History of the noken electoral system

Noken is a kind of plait bag, traditionally made by Papuans from tree bark. It is used by Papuan natives in their daily life, both by those living in the mountainous and those dwelling in the littoral areas. Since 2012, the UNESCO has recognized noken as a cultural heritage protected and recorded within the representative list of the intangible cultural heritage of humanity (Gloria & Harto, 2014). Papuan tribes name noken in their languages.

Dani tribesmen call noken with "su". Biak tribe members call it "inokson". Marind tribe in Merauke regency call it "mahyan". No matter the name, it is always made from the tree barks and has a sacred and important meaning in the cultural structures of those Papuan tribes (Arizona, 2010).

The Papuan native originally makes Noken (Tebay, 2014). Among the Papuan natives, noken is perceived as the symbol of good life, peace, and fertility. This underlies the prominent status of wood bark noken within the native Papuan cultural structures. In his or her tradition, not everyone is allowed to plait the tree bark into noken. It is only indigenous Papuan women, who are legitimate in making noken, and those women have to be not yet grown up and not yet appropriate to marry. Papuan men are forbidden to do the making for noken is deemed as the source of a woman's womb fertility (Arizona, 2010).

Noken has both economic and cultural functions. Papuans use those noken, bags of tree bark, for carrying food and their horticultural crops as well as holding their baby (Suryawan, 2014; *Bintang Papua*, 22 March 2014). Noken has a noble meaning and is inextricable from Papuan natives both male and female. Furthermore, noken has culturally become an identity symbol indicating the tribe or clan of the one who carries it. While Papua consists of seven cultural areas, i.e. Mamta, Saireri, Doberai, Bomberai, Mee Pago, La Pago and Hanim, each of those seven areas has its respective individual noken. Economically, noken can be exchange by its owner into other goods such as foods and clothes (Walilo, 2016).

Noken was used in various customary rituals, such as pre-wedding ceremony of Dani people in Wamena. Before wedding, the parents of woman will bring their daughter to the house of man. During the event, the woman should use noken and shell for a decoration.⁴ The noken symbolizes of maturity, purity, and adultery of the women so it means the woman is ready to marry. In fact, the use of noken for resolving political problems has been a new phenomenon since the integration of Papua into Indonesia in 1969. The cultural tradition of most Papuan natives in decision-making suggests a convention

⁴<https://zipoer7.wordpress.com/2009/09/29/pernikahan-adat-suku-dani-di-papua/>

involving the whole community chaired by a tribe chief. The decision process is carried out in a collective way in the cases of tribal wars, holding a usual ritual, etc. Wenda et al. (2014: 174) expound that in Papuan society social system, decision-making is conducted through the noken system and *sistem ikat lidi* (coconut leaves stick band system).⁵ Within these two systems, the community is called to gather and convene under the leadership of a tribal chief. Nevertheless, in such a convention, the principal holds the supreme authority and is the decision maker for he is an authoritative man within the customary structure of Papuans (*Bintang Papua*, 6 March 2014).

When a referendum or a general election was introduced to Papuan current society, they had not understood the one-man one-vote system. In the 1969, the referendum for deciding whether Papuans wanted either to integrate into Indonesia or to have their own independent state for example was held through a representative system. The 1025 native Papuans representing the whole Papuans convened to make their decision. In 1971, the Indonesian government introduced a general election into Papua for choosing members of the national and regional houses of representatives. At that time, the voting mechanism in Pegunungan Tengah was made through a discussion among prominent figures of their customary society. The decision resulted from a convention chaired by a tribal chief reflects the political aspiration of community and is recognized as legitimate by the government (Wenda et al., 2014). Taking into account the authority of tribal chiefs, the general election in Pegunungan Tengah used the noken system, where the community members decide to give their votes to a party or a candidate and put into a noken. However, Lani tribe, especially those who dwell in Mee Pago, Yalimo, and Pegunungan Bintang common areas, has a different tradition: their tribal chief's authority is validated only in things that have something to do with ritual ceremonies (Wenda et al., 2014).

Since the 1998 post reform era, the noken system has been used in the 2009 general

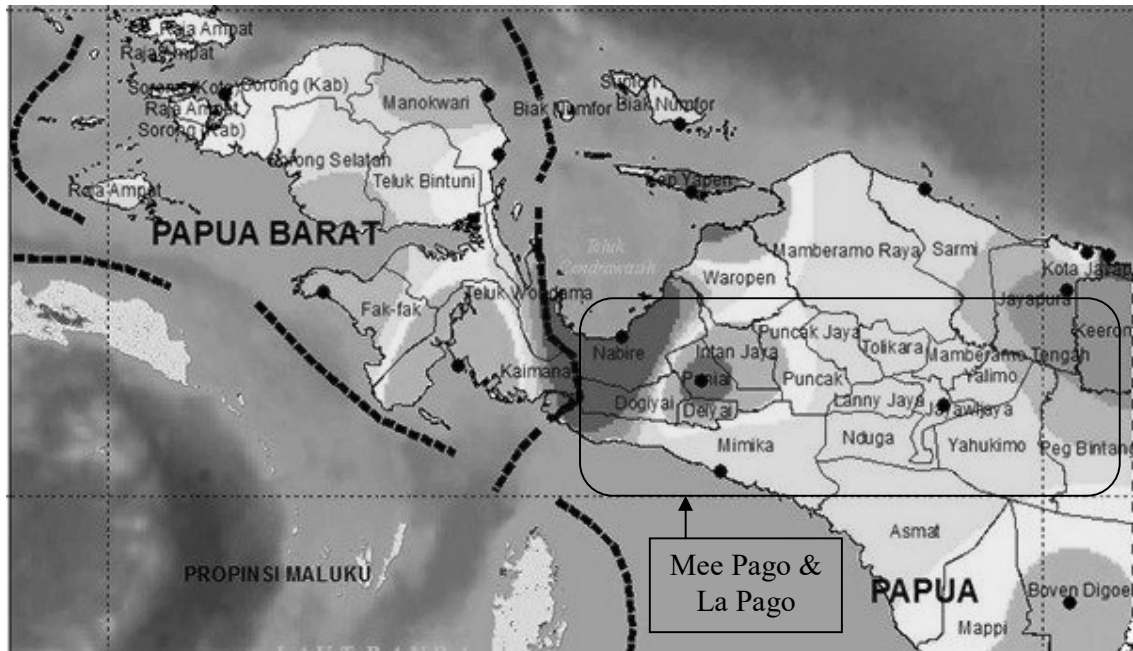
⁵In *sistem ikat lidi* every community member take one stick and put it in a bamboo that belongs to certain candidate. Then electoral committee will account the number of stick in every bamboo.

election, the 2013 gubernatorial election, and in the 2014 presidential election. The system is in accordance with the Constitutional Court ruling no. 47-81/PHPU.A/VII/2009 and conforms to the culture of those Papuan traditional societies, who inhabit the customary areas of Mee Pago and La Pago. The customary area of Mee Pago covers the regencies of Nabire, Dogiyai, Deiyai, Paniai, Intan Jaya and Mimika. La Pago common areas include regency of Puncak Jaya, Puncak, Nduga, Jayawijaya, Lanny Jaya, Mamberamo Tengah, Tolikara, Yalimo, Pegunungan Bintang and Yahukimo (Sastika and Widodo, 2015). The practice of the noken system can be found in those 16 regencies due to geographical factor, population dispersion of mountainous areas inhibiting people descending the hills to vote, and information access limitation.

• Noken Electoral System in Practices

Father Neles Tebay (2014) describe the use of the noken system in a general election can be described as follows. The first step is the general election socialization including the introduction of candidates for regional chiefs and presidential elections, and or socialization about political parties and candidates for houses of representatives. The day the candidates have been established, Papuans who live in mountainous areas begin to involve in both formal and informal discussions on their votes, in spontaneous or planned manner. Formal discussions are held in *honai* or customary houses, courtyards of religious facilities, or community halls. Discussions in *honai* sare chaired by the tribal chiefs; meanwhile, those in other places are guided by leading figures such as religious leaders, teachers, and civil servants. In each discussion, the whole community members share information on the backgrounds of candidates, covering their jobs, place of origin, personal characteristics, values that they struggle. If the candidates come from their own home area, the question is what the candidates have contributed to their community or area.

The second step is the choice making based on such discussions. After gathering information, society begins to have a clear picture about the candidates to be voted. Each voter commences to decide personally, which



Map of Papua land⁶

candidate he or she likes to vote. The nominees' names are delivered to the others as well in order to examine their appropriateness and to get feedbacks. This way, all candidates mentioned by voters undergo a fit and proper test done by the whole community considering their social criteria. The result of the convention is the name of the candidate whom they choose and the vote numbers they give for the candidate (Raharusun, 2014).

The description⁶ of Father Neles Tebay is supported by Santoso (2014: 4-5) who mentions an example of the noken system practice. A tribe consulted among themselves which party or candidate they will vote before the Election Day. In a modern general election, this activity is against the election procedure and principle due to elections always base on individual decision. Nevertheless, such important decisions, including a general election that influences tribal life, the tribe should collectively decide. For example, the election of provincial governor or head of regency has a serious impact on their future life. Consequently, the whole members of the tribe

will gather, debate, and then agree on a political decision. Because the tribe has debated, so there is no longer secret in the community about their collective decision.

The following exposition describes examples of the noken system use in Pegunungan Tengah of Papua, reported within mass media and anterior studies. In a session of lawsuit trial in the Constitutional Court on the dispute of governor election on March 6th, 2013, a witness of the Karubaga district of Tolikara told the court that a mutual decision taken on the evening of January 28th, 2013. The community had held a convention chaired by the tribal chief and had their conclusion that they voted for Lucas Enembe was originally from Pegunungan Tengah. Their decision manifested in the voting day on 29 January 2013; the electoral committee gave them ballots, their chief represented their voting. That day, the chair of the Political Commission of the Regional House of Representatives of Tolikara came and begged them to give their votes to Habel Sue, but the community refused to fulfil their demand (*Bintang Papua*, 6 March 2014).

A witness from Itadipa district of Intan Jaya gave a different testimony. He told that in the evening of 28 January 2013, all customary leaders convened to have a discussion

⁶http://1.bp.blogspot.com/-8spnG_OvmvM/WVsZJDODMPI/AAAAAAAAAAtE/8DYPix7pFUgWMO3op4VqubQDntVU8wbyACK4BGAYYCw/s1600/Papua-600x330.jpg

determining the candidates to whom they would give their votes. In the morning, those leaders informed the community before the witnesses belongs to candidates' number 3, Lucas Enembe, and number 4, Wellington Wenda. They said that the convention had decided to give the votes of the district community to Lukas Enembe because they had also given their votes to Enembe in the previous governor election in 2005, and thus the votes were given to Enembe. However, other customary leaders considered to another candidate, Wellington Wenda, due to he was originally from Intan Jaya. In the consultation, the whole members agreed that they would distribute votes equal between Lucas Enembe and Wellington Wenda (*Bintang Papua*, 6 March 2014).

The use of noken system depends on the strong leader in a community, the so-called a big man. In Panggabean's (2014) report, in a local language, their word for *big man* is "*menagawan*" (reliable person). The *menagawan* status is not inherited through bloodlines but achieved by a person based on his conducts and acts for winning a competition for such a status. Someone would achieve *menagawan* status when he has safe manners and actions, and has contributed much in serving his community. People would recognize a bigman for his grandeur and would obey him. Besides, he has not only been victorious in wars but also for his works for improving his communities' welfare. In some cases, a big man is an intervillage's leader, excellent in making arguments and negotiating and building unities among villages. Most bigman hold a political position or are village chiefs, and they represent the tribal community when negotiating with district or regency governments (Panggabean 2014).

Panggabean (2014) writes his experience over the noken system practice in the regency head election of Timika in 2013. In many cases, before the election, the so-called big man, which generally a tribal chief, from a village gave visits to other villages. In those visits they shared information on the candidates' backgrounds, and discussed whom they were going to vote, would they give their whole communities' votes to the best candidates they consider as having an active willing in struggling for their interests, or would they divide equally their votes to all candidates couples. The *big man* expressed his proposal to share their votes equally to all couples for the

following reasons. *First*, all candidates couples were deemed unsupportive to their interests, and none of them had ever made any development program in Pegunungan Tengah. *Second*, the ten couples of candidates were from their home communities in mountainous areas, and they all were their relatives, so that it was hard to decide to whom they would give more or less votes. Other bigman accepted such a proposal, and other leaders agreed to have the same decision. Panggabean (2014) indicates that related to the use of the noken system; tribal chiefs expounded that customary communities did not know the regency head candidates directly. Besides, the way of choosing within the election was not familiar with them, and some of them had no knowledge whatsoever about it. The customary communities handed over consequently their votes to the decision of their tribal chiefs, which candidates they would give their votes in a regional head election. Papuan natives, who live in Pegunungan Tengah, were assured that their leaders, i.e. their tribal chiefs, would never put their communities into difficulties, so that their choice was the one of their community.

A further investigation makes clear that a political decision made via noken system is individual policy decisions that bound together to the larger community decision resulting in a collective decision of the community. Noken is merely a symbol of such a consensus. A tribal community who live in a village or district can have a consensus to collect all their ballots into a noken and hand them over to individual candidates or dividing them to their trusted candidates.

Tebay (2014) analysis indicates that in noken system, people's consensus over their political choice decided before the voting day. Different from the modern election system, noken voters do not keep their consensus secretly over the candidates to whom they give their votes. They tell the consensus to the others. The consequence is that people will surely know which candidates or parties given votes by a community before the electoral day. The electoral day is simply the time where they articulate their common consensus. Elections in Pegunungan Tengah run transparently based on their public agreement that includes all personal decisions of voters. People do not hence mind where the voting places would be. The piercing of ballots can be done at the polling sites, but the

results have to follow the consensus made by the community.

Voters do not have to come to the polling sites, for ballots piercing can be executed by anyone who represents them. Some numbers of customary communities do not ask their tribal chief to do the perforating because they honor the tribal chiefs as highly respected cultural leaders. Therefore, the chiefs do need to handle of technical things. Those who are assigned to pierce the ballots according to the communities' consensus are those trusted by a person from the customary community or a member of confidence of the electoral committee. If the election result is conforming to their agreement, the community will not be furious and protest it. A consensus of people, symbolized by the noken, reflects political participation and emancipation (Tebay, 2014).

The noken systems can generally be distinguished into two kinds considering the way the votes are given, i.e. bigman (bound) noken and hung noken. The big man noken is used by letting a prominent or trusted figure to represent the whole community to vote, such as a tribal chief. The first kind of noken system is done by doing a voting where the whole ballots are handed over to a big man who represents all the voters included within his tribe. In the second kind of noken system, electors of the community can be informed of the consensus gained through a common convention, to what political party or candidate their votes are going to be given, how many of their votes are for a certain party or candidate. Such a tradition is legitimized by the General Election Commission (KPU, Komisi Pemilihan Umum) of Papua's ruling indicating that the tribal chief is allowed to do the ballot piercing representing his people (Peraturan KPU Papua no. 1/2001). Although the noken system is used, but the KPU still provides ballot boxes at voting sites (Peraturan KPU Papua no. 1/2012).

Mirin (2013) describes how the "hung noken" and "bound noken" systems were used in Yahukimo regency head elections since 2005. Within the hanging noken system, before the voting boxes are placed empty nokens with the pictures of the candidates over them. At a village, a number of nokens is provided accorded to the number of the candidate. When all invited voters had been present at the place, the Committee Chairman of Voting (KPPS,

Ketua Panitia Pemungutan Suara) asked the voters to rise and line up before the nokens according to their choices. They are doing so, the Chairman counted their number and then distributing the blank ballots into the nokens according to the voter's number counting. If all the voters lined up before only one candidate couple, it means that the whole community voted only to one couple of candidate. Then, he made the voting report and sent it to the district electoral committee. After that, the district electoral committee account the whole votes, the sent it to the regency electoral committee.

The bound noken system was used in elections in 51 districts in Yahukimo. Before the Election Day, voters from the neighbourhood led by their tribal community chiefs and village officials gathered to decide to which candidates the votes of their community would be given, entirely or distributed according to a certain proportion. The other day, the chair of electoral committee wrote the voting report and counting certificate at the voting site and sent it to the district electoral committee. Then, the result of election in district level would be sent to the regency electoral committee.

In the elections of representative's houses members at all levels in 2014, the use of the noken system posed problems, for it has not yet stipulated by any law. The chair of the KPUD of Papua, Adam Ariso, explained that the noken system could not be used in legislative election of 9 April 2014, for the Constitution Court ruling indicates that the noken system can be utilized only in the elections of regional government chiefs. Nevertheless, the Chief of Jayawijaya regency, John Wetipo, argued: "Although the noken system of the legislative election does not have any legal basis in Jayawijaya regency, it will be used, for it has become part of the culture of Pegunungan Tengah people living dispersedly in 15 regencies." He insisted that the noken system in Pegunungan Tengah had very long been there, and it was considered valid by the communities of Pegunungan Tengah in decision-making (*Bintang Papua*, 28 February 2014). A further investigation would show that noken system has a secret solidarity value in securing the interests of the customary community, for the community is confident that the system provides them greater chance that the regional leadership and their representatives at any level of legislature are those they choose.

According to Uropdana (2014), the secrecy philosophy of noken system for Papuan natives is nothing but their discovery over the Papuan customary community's self-esteem and human dignity. It is considering the real development program that does not seem to work on Papuan natives in the fields of political participation, bureaucracy, educational and health services and infrastructure.

In general, most Papuan native live in Pegunungan Tengah, prefer to use noken system in both national and local elections. The practices of such elections mean that the government provide Papuan native a space for expressing their cultural identity. In Indonesian modern post-reform politics, it has two meaning. Firstly, the noken system means that the government accommodates Papuan cultural practices into modern political system. Secondly, the government recognizes that general election in Papua should adapt cultural and traditional values. In addition, candidates or political parties selected via noken system tend to close to their constituents because tribal communities acknowledge their record of accomplishment. Therefore, besides accommodating Papuan culture, the noken system is an appropriate way to find the best quality leaders or political parties according to perspective of Papuan native.

• **Problems of Noken Electoral System**

The Constitutional Court's has legalized the use of noken. The decision can be considered as a recognition and respect form towards cultural variety and plurality of Indonesian society. The decision can be interpreted as a legal norm for allowing the noken system in the regencies of Pegunungan Tengah Papua (Raharusun, 2014). However, the implementation of noken system often makes many problems even tend to political violence. Multazim (2016) in his journal article tell about pro and contra against noken electoral system among Papuan. Some elites support the system because such system is suitable with Melanesian cultural traditions. However, some refuse the noken system due to its inability to deliver a political education for Papuan people that no longer live in ancestral time. The main principals of election, i.e. direct, general, free, secret, fair and just, cannot be found in noken system.

An analysis made by Raharusun (2014) demonstrates that that noken system can be seen in different perspectives related to the development of democratic political system in Papua. First, noken is a symbol of cultural entity; therefore, it has to be respected, appreciated and maintained as a part of the national cultural treasury. The presence of noken should not be politicized for short terms political interests, such as in regional leadership and legislative elections, especially in the 16 regencies in Pegunungan Tengah of Papua. Second, noken has been used as a democratic instrument, i.e. for a general election. For such necessity, the use of noken as the substitute of ballot box should never be manipulated into a political means for claiming to represent the completely Papuan tribal communities, for such act would surely endanger the progress and civilization of democracy in Papua. Third, the noken system can be considered as not educating many Papuan natives to live a modern democratic system. It is because the government should taught tribal communities the importance of their constitutional rights, obligations, and responsibility as citizens.

Father Neles Tebay has told a problem of noken system.⁷ He says that there is a character difference related to the practices of noken system between east and west Pegunungan Tengah. In Eastern Pegunungan Tengah or La Pago area, the role of big man, in particularly tribal leaders is very strong, so the whole members of tribal community achieve one decision. The strong position of tribal chiefs is vulnerable for political manipulation in the present day Papua when political contestation is in line with capital contestation. However, in Western part of Pegunungan Tengah, mainly in Mee Pago areas, the role of big man is moderate and he usually give community members freedom to choose, not only one decision. Father Neles give an example, during the 2014 presidential election; the use of noken system in Dogiyai resulted into vote's distribution between Jokowi and Prabowo. Such a distribution was a result of consultation between tribal groups in the regency of Dogiyai.

In reality, some Papuan elites have used the noken system for fulfil their political interest. For example, in the 2017 local head

⁷Interview with Father Neles Tebay in Jakarta in 13 July 2017.

election of Intan Jaya, Governor Enembe pressured some tribal chiefs to vote for his favour candidate. Then, some tribal leaders refused it and launched tribal wars against the tribes supporting the governor candidate.⁸ The common phenomenon is that some tribal communities become merely an object of political interests of some Papuan political elites. This phenomenon marks the distortion of noken system from ideal democratic way into an instrument achieving the power. If the situation were let be running in prolonged terms, such politicization over the noken system would unfortunately give birth to those politicians who have no vision about their Papuan-ness and Indonesian-ness (Raharusun, 2014).

Wenda et al. (2014) give an example from the 2013 Papuan provincial governor election in Kanggume district of Tolikara. In the voting day, the district chief claimed to represent the completely customary community symbolically did the voting for them in hidden collaboration with village leaders without any cognition of local conventional community on 27 June 2013. In such case, the tribal chief was not involved, but there were local elite members who did not want that their society developed in democracy. They for their vested political interests in systematic and structured way exploited the noken system and estranged the customary community from the modern democracy realm.

Besides, it is feared that the customary community of Papua would undergo some setback and find immense difficulty for developing themselves in democratic civilization. It is time for the customary community of Papua to show that political condition in Papua has changed if compared to that in 1969 where native Papuans were not given any chance to express their political aspirations according to one-man-one-vote principle. Taha Al Hamid indicated in an FGD organized by the LIPI (November 2014)⁹ that the noken system will, unfortunately, legitimate the assumption that referendum or modern democratic political system is incompatible with traditional practices of Papuan natives. Such a thought was

expressed equally by Uropdana (2014), he said that some part of Papuan people especially who have their own political interests feel that the noken system is not democratic because it hinders the democratic change process to the modern general election system. In addition, the system creates some anxiety that some numbers of voters for certain candidates within the noken system election and outside their voting areas will disappear.

In Wenda et al.'s perspective (2014), the use of noken is considered problematic for within the civilization history of Papuan natives. It is due to noken had never been used as an instrument for choosing a tribal chief in tribal democracy of mountain people. A tribal leader within the tradition of Papuan natives is appointed because he holds a firm legitimacy from the customary community of Papua. One among the heritages of Pegunungan Tengah Papuans is the tribal chief institution. The failure of the Indonesian government in developing modern democracy in Papua can be seen in the legalization of the noken system election since the 1971 general election. In some cases, such an election system can, unfortunately, create horizontal conflicts within the customary community of Pegunungan Tengah.

The main problem of noken system according to Kurniawan Zein, the research director of LP3ES (Social and Economic Institute for Research, Education, and Information) Jakarta, is some tribal chiefs often manipulated the practices of noken system. They register all of community members into official electoral committee at their respected villages. Then, the electoral committee as well as the village head do not verify the registration and follow the tribal chiefs. In reality, community members in Pegunungan Tengah Papua are dynamics related to demographical changes so it can increases or decreases from time to time.¹⁰ Therefore, the main problem is not on the consultation among community members but on the administration processes at the beginning, the validity of community members registered by tribal chiefs that is uncontrolled by the electoral committee.

⁸Interview with Thaha Alhamid in Jakarta in 31 July 2017.

⁹Focus Group Discussion on Comparing peace processes between Aceh and West Papua in November 2014.

¹⁰<http://www.tribunnews.com/nasional/2013/08/20/sistem-noken-di-papua-dinilai-punya-kelemahan>

Although the use of noken system seems ideal as the way to accommodate Papuan cultural tradition into modern political system, some scholars and activist countered the practices of noken system. *Firstly*, some scholars, mainly those who studies political sciences, have criticised the use of noken system because of contradiction against the main principal of election in a modern democratic system. *Secondly*, several Papuan activist, like Thaha Alhamid, the secretary general of Papua Presidium Council, disagree the use of noken system because such a system does not give Papuan people a political education equal with their fellow Indonesian brothers. *Thirdly*, some scholar from Papua respect the noken system but come up with an idea that the government should improve and supervise the practices of noken system in order to avoid political manipulation.

• Discussions

Based on aforementioned findings, the implementation of democratic system based on individual freedom via general election, according to Dahl (1992) and Huntington (1995), finds difficulties in some regencies of Papua land. For example, the way to elect leader in tribal communities is not conducted by voting based on individual freedom, but by public consultation involved by the whole community. In addition, the principle of secret election is not appropriate in Papuan tradition that their decision is always made collectively. Either direct or representative elections are contradict against Papuan cultural tradition that live in communitarian way. Therefore, the concept of direct democracy is difficult to analyse the general election in some regencies in Pegunungan Tengah Papua. The concept of democracy that is relatively close to Papuan tradition is deliberative democracy (Habermas, 1992). However, the whole concept of deliberative democracy cannot be used to analyse due to the different socio-cultural context between European and Papuan societies. Communitarian based democracy that a variant of deliberative democracy might be more appropriate to study Papuan democratically way.

In addition to the modern law, Indonesia also recognizes the application of customary laws that develop in every cultural community in Indonesia. The 2009 ruling of the Constitutional Court that legalized the noken

system should be understood as the evidence that the national state recognizes the way Papuan natives give meaning to general election. It is equally the case in the Court's 2011 ruling on a regency head electoral dispute in Lany Jaya. The ruling stipulates that noken system general election is a form of state accommodation to the local wisdom of the customary community of the tribes in Pegunungan Tengah in having their general election. For the Court, an election done with an acclamation or people consensus is an election model which is suitable to the local culture and custom that have to be well understood and respected (Hadi, 2013).

The legislative general election for most Papuan native tribes in Pegunungan Tengah is a joyful party. For example, a tribal chief in Yahukimo gathered the full members of his tribe for discussing how the election had to be conducted. The discussion decided the chief who would do the marking of the ballots for the parties to which they had decided to give individual numbers of votes. In the Election Day, the chief did the marking, and his community had their stone burning meal ceremony. The ballots were then distributed and put into the nokens of the political parties. A tribal chief explained that although the noken system deviated from the general election law, but it was more important that the election did not leave hostility among people in the customary community. That is why such deviation against the legal electoral system is let be going and considered normal in Yahukimo regency and some other regency in Pegunungan Tengah (Hadi, 2013).

The noken electoral system can be viewed considering the relation between the constituents and their representatives. Busroh (2008, cf. Arizona, 2010) indicates that in democratic practices there are three sorts of people's mandates to their representatives or leaders they choose in general election. *Firstly*, imperative mandates, i.e. the representatives are bound to the commands of their constituents. The mandate has to do the mandate. *Secondly*, free mandates, i.e. that the agents are free after the election. It means that they do not have to do their constituents' instructions. There is no accountability to their constituency. *Third*, representative mandates, i.e. that after the election, the mandates are given to the institution that work in parliament.

The terms of constituency in the noken electoral system have many similarities with the necessary ones. It can be observed at the cultural background of Papuan natives. For dealing with daily problems in a customary community, several institutions are formed that do certain functions. Certain positions in a conventional system, especially the joint chief position, are genealogically hereditary. However, in certain tribes, a chief is appointed by certain prominent figures in their community taking into account the person's capacity. The chief has the authority to make decisions over the matters that have impacts on their community interests. Nevertheless, in practice, community members are always invited to discuss the problems before the tribal leadership issues the decision.

Similar to what can be found in many parts of Indonesia, consensual convention (*musyawarah*) is a democratic form that manifests within the Papuan customary community. According to Arizona (2010), such convention as the substance of democracy is a form of Habermas' deliberative democracy. In a constitutional Papuan convention, everyone's voice is always heard. Dissents and criticisms in Papuan people tradition make a method for explaining the matter and gaining the standard solution. Such convention is carried out in such a way that in dealing with outsiders they have unanimous voice and perspective. Such an agreement becomes a strategy used by Papuan natives in maintaining their political stand.

If consensual convention is no longer used as a method of solving communal problems, the community will become fragile and easy to be dominated by an oligarchy that grows and develops there. Such a government within the customary community will create distrust against customary institutions, so that the community will tend to delegate their aspiration to their leadership or elders. If the community considers that conventional systems are incapable of making the decisions, they will come to have dialogues with outsiders that have been chosen by the precedent convention.

Deliberative democracy is characterized by the presence of a free public sphere that fosters the formation of practical discourses, opinions and people's sovereignty. The deliberative democracy characteristic that can be seen in noken general election is that the existence of a free public sphere like the one

theorized by Habermas. We can analyse and find out that noken general election has the basic characteristics and values of a deliberative democracy. It is thus necessary to discuss the ideal public sphere.

Arendt (1958), Fraser (1992), and Taylor (2002) have considered public domain in political perspective. Presetyo (2012) indicates that these all thinkers share the same view that public sphere has a significant role in strengthening the democratic realm; for it is an area lived by the civil society acting as the mediators between the state and the individuals. Public reasoning through such a public sphere controls a formal political system. Habermas (1989: 36-37) and Thomassen (2010: 41) describe three features of an ideal public sphere. *First*, public domain is a place for social contacts that assumes that equal status of everyone for social status seems irrelevant there. The concepts of personal status and position are replaced by the notion of wisdom value seen within good arguments. *Second*, the unifying value that makes people meet in a public sphere is not impressive, but the value that everyone equally uses the "interest less reasoning". The justification of an argument in a public sphere is whether an argument defends public interests or not. *Third*, a public sphere has to be inclusive; for the only requirement for participating in it is that the person has the capacity of using his or her rationality.

In the context of noken system practices among tribal communities in Pegunungan Tengah Papua, free public sphere is an influential factor to the noken system. Generally, the influence of tribal chiefs is dominant to unite the whole community members. The problem arises when some interest groups outside of the community, such as a big business or political elite, approach tribal chiefs and conspire with them. If it occurs, the distortion of noken system is unavoidable. To keep the free public sphere, the adat council of Papua (Dewan Adat Papua) should observe, supervise, and evaluate the implementation of noken system. It is necessary to prevent such a distortion of meaning from the noken system. In addition, the national election commission has to make sure that local electoral committee work properly according to democratic principles.

Consensual convention found within the customary community of Papua in the context of

noken system can be observed as an implementation of the fundamental principles of deliberative democracy. Noken general election is an instrument for making a political decision collectively within a communicative public sphere. Such a convention for making a political decision is an arena for creating a rational discourse that involves every member of the customary community. The Noken system election requires a public sphere that demands status equality, where someone's existence in the convention is evaluated from his or her argument. They would discuss together particular interests of the members or the leadership within the customary community put under the priority shared interests.

I would like to give a case told by Father Neles Tebay during the 2014 Presidential election in Dogiyai, Papua.¹¹ In a public consultation, all tribal leaders discussed how the distribution votes would between Joko Widodo and Prabowo Subianto. They achieve one agreement that votes for the former is more than for the latter (70:30) due to Prabowo has involved in human right abuse during the so-called Mapenduma military operation in Pegunungan Tengah. However, the head of regency, whose from Welfare and Justice Party, the supporter of Prabowo came in and asked the distribution of vote equal between two candidates. The tribal leaders meeting then force him out and all votes went to Jokowi because they felt irritated and insulted by the demand of the regency head. From the story, I believe that if the government keep a free public sphere as part of the noken system, the result of noken system would be reasonable and according to most Papuan aspiration.

Tracing in more detail, this cultural practice of democracy Papua is nothing new in Indonesian society and even rooted in several ethnic groups before colonial period. According to Hatta and Yamin, a decision-making system in Indonesian democracy emphasizes the concept of consultative (*musyawarah*) sourced from religious or traditional teachings (Azim & Siregar, 2014: 96). Sukarno considered democracy that will be applied in Indonesia is a people democracy, i.e. it has to base on consensus, representative and deliberative. The decision of constitutional court in 2009 about the legality of

¹¹Interview with Father Neles Tebay in Jakarta 13 July 2017.

noken electoral system proves that consensus in Papuan democracy is still maintained although Indonesia has adopted a modern democratic political system. This cultural based election shows that consultation not an irrational idea, but it is a parallel with the growing practice of modern democratic system (Azim & Siregar, 2014: 96).

Conclusion

Considering the discussion above, we may conclude that noken general election makes us understand a gap between modern democratic system and traditional practices that grow and develop within the customary community of Papua. Noken general election is a bridge for Papuan natives especially those living in Pegunungan Tengah to participate and contribute to the citizenship life of Indonesia through the general election. The noken system is indeed violated the main principles of democracy requiring a public, direct, free and secret general election. However, the use of the scheme shows that it contains justice principles within the cultural perspective of Papuan natives.

As a theoretical implication, noken general election reflects, in one hand, the application of deliberative democracy principles, according to Habermas thoughts, due to the consensual convention manifests a public sphere. The convention is the arena for creating practical discourses where argumentation has a higher position than social status within the customary community. The noken system is an alternative to the liberal democracy that proves incompatible to Melanesian cultural characteristics, particularly in West Papua. However, in the other hand, such a general election system stirs critical questions on the development processes of democracy and civilization of Papuan natives. The existence and legality of the noken general election are feared to legitimate the lagging of mountainous Papuan natives in adapting to a modern democratic system that has developed and grown in other regions of Indonesia.

Even though the noken system in some cases is still misused by some Papuan political elites to fulfil their interest, such a system can act as the bride between the modern and traditional practices if the government seriously improve the practices. For example, electoral committee should conduct the registration

process of voters, but a tribal chief chairs the consultation. As consequent, the number of bullets voted is according to the real data accounted by local government. Furthermore, during the accounting processes, including recapitulation, should be transparent and open using information technology. The most important thing is the national government and the national electoral commission should make sure that the electoral process is according to main principles, transparent, fair and just. Both institutions cannot restrict the consultation processes and its result. However in the future, they have to provide tribal communities political education gradually so the tribal communities would adapt the direct election system.

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