

**THE CHALLENGES TO  
PURSUING DEMOCRATIC ELECTIONS IN PAPUA**

**SUPRIADI**

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Thesis  
entitled  
**THE CHALLENGES TO  
PURSUING DEMOCRATIC ELECTIONS IN PAPUA**

.....  
Mr. Supriadi  
Candidate

.....  
Lect. Yanuar Sumarlan, Ph.D.  
(Social Science)  
Major advisor

.....  
Lect. Michael George Hayes, Ph.D.  
(History and Communication and Cultural  
Studies)  
Co-advisor

.....  
Prof. Patcharee Lertrit,  
M.D., Ph.D. (Biochemistry)  
Dean  
Faculty of Graduate Studies  
Mahidol University

.....  
Lect. Matthew Mullen, Ph.D.  
(Human Rights and Peace Studies)  
Acting Program Director  
Project for the Establishment of Institute  
of Human Rights and Peace Studies,  
Mahidol

Thesis  
entitled  
**THE CHALLENGES TO  
PURSUING DEMOCRATIC ELECTIONS IN PAPUA**

was submitted to the Faculty of Graduate Studies, Mahidol University  
for the degree of Master of Arts (Human Rights)

on  
July 16, 2015

.....  
Mr. Supriadi  
Candidate

.....  
Assoc. Prof. Witthaya Sucharithanagase,  
Ph.D.  
(International Law)  
Chair

.....  
Lect. Michael George Hayes, Ph.D.  
(History, Communication and  
Cultural Studies)  
Member

.....  
Lect. Yanuar Sumarlan, Ph.D.  
(Social Science)  
Member

.....  
Prof. Patcharee Lertrit, M.D.,Ph.D  
(Biochemistry)  
Dean  
Faculty of Graduate Studies,  
Mahidol University

.....  
Lect. Eakpant Pidavanija, Ph.D.  
(Peace, Conflict, and Development)  
Acting Director  
Project for the Establishment of Institute  
of Human Rights and Peace Studies,  
Mahidol

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Solidarity for the Papuan struggle to achieve their rights of humanity,

Supriadi

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SUPRIADI 5338051 HPHR/M

M.A. (HUMAN RIGHTS)

THESIS ADVISORY COMMITTEE: YANUAR SUMARLAN, Ph.D., MICHAEL GEORGE HAYES, Ph.D.

ABSTRACT

This thesis examined the implementation of asymmetric elections (*noken* system) in Papua Indonesia. The research was a qualitative ethnographic study, which collected data through in-depth interviews and a direct observation during the election in the Jayawijaya regency of Papua and also obtained data from document analysis. The study found different perspectives towards the asymmetric election that was mainly based on cultural inheritance and political argumentation. There was convincing evidence that the *noken* system was shaped from the bad practice of previous elections during the authoritarian regime rather than from the cultural inheritance aspect. The system neglected democratic electoral principles and norm, the voting method violated individual citizen's rights to participate in the election and disregarded the principle of one-man-one-vote. Furthermore, the Noken method allowed for political domination by 'big-men', a typical Melanesian leadership style that re-emerged in the electoral event in Papua. The research also summarized the analysis from a few electoral experts regarding the Noken system. Finally, this paper revealed a set of conclusions, which mainly argued that the Noken system was invented and that, rather than respecting it for originating from legitimate cultural practices, it should be corrected to fulfill minimum democratic standards.

KEY WORDS: PAPUA ELECTIONS/ NOKEN SYSTEM/ COMMUNAL PROXY-VOTE/ BIG-MEN

128 pages

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## LIST OF ABBREVIATION

Adat	The hereditary customs acknowledged, adhered to, institutionalized and maintained by the Local <i>adat</i> community;
Adat community	The members of the Papua natives living in and bound to a certain area and adat with high solidarity among its members;
<i>Adat Law</i>	Verbal regulations or norms prevailing within the <i>adat</i> law community, regulating, binding and maintained and bear sanctions;
<i>Adat Law Community</i>	Community is the members of the Papua natives which since their birth live within certain areas and are bound and governed by certain adat laws with a high feeling of solidarity among its members;
Bawaslu / Panwaslu	Elections Supervisory Body / Elections Supervisory Committee
BPS (Badan Pusat Statistic)	Central Bureau of Statistics
Bupati – Wakil Bupati	Head of Regency – deputy head of regency
DAP (Dewan Adat Papua)	Papuan Ethnic Council
Desa	Village
Dewan Kampung	<i>Village</i> Consultative Body or called by any other name is a group of people forming one unit comprising various elements within the <i>Kampung</i> and elected and acknowledged by the local people to give suggestions and consideration to <i>Kampung</i> Government;
DPD	Provincial Representative Council, alike Senator type of position.

## LIST OF ABBREVIATION (cont.)

DPR	National House of Representative or National Parliament
DPRP	Papua House of Representative
DPRP (Dewan Perwakilan Rakyat Papua)	Papua People's Representative Council or Papua House of Representatives
DPS (Daftar Pemilih Sementara)	Temporary Voter List
DPT (Daftar Pemilih Tetap)	Final Voter List
<i>Hak Ulayat</i>	The right of association controlled by a certain adat community over a certain area, which is the living environment of its member, covering the right to utilize the land, forest and water and all their contents according to statutory regulations;
Ikatan Suara	Vote by consensus
Inpres (Instruksi Presiden)	Presidential Instruction
Kabupaten	Regency
Kampung	A legal community unit which has the authority to organize and manage the interests of the local community based on the local origin and customs acknowledged in the national administration system
Kecamatan	District in Papua
Kemendagri (Kementrian Dalam Negeri)	Ministry of Interior / Ministry of Home Affair
Kemenhan (Kementrian Pertahanan)	Ministry of Defense
Koramil (Komando Rayon Militer)	District Military Command in district level
Kodam (Komando Daerah Militer)	A <i>military</i> command area (effectively a <i>military</i> district)

## LIST OF ABBREVIATION (cont.)

Kota / Kotamadya	Municipalities
KPPS (Kelompok Panitia Pemungutan Suara)	Polling officers
KPU	Elections Commission (EC) in national level
KPUD (Komisi Pemilihan Umum Daerah)	Regency Elections Commission
MK (Mahkamah Konstitusi)	Constitutional Court
MPR (Majelis Permusyawaratan Rakyat)	The People's Consultative Assembly (National Upper House)
MRP (Majelis Rakyat Papua)	Papua People's Council
NKRI (Negara Kesatuan Republi Indonesia)	Unitary State of the Republic of Indonesia
Panwaslu (Panitia Pengawas Pemilu)	Election Supervisory Committee in provincial, district and sub-district as subordinate of BAWASLU
Partai Demokrasi Indonesia Perjuangan (PDIP)	Indonesian Democratic Party – Struggle.
Partai Demokrat (PD)	Democrat Party
Partai Golkar (PG)	The party of functional group, previously named secretariat bersama of functional group.
Pemekaran	Expanding/combining or creating a new administrative division within the same region into new provinces, city or regency.
PEPERA (Penjajakan Pendapat Rakyat)	Act of Free Choice or Referendum,

## LIST OF ABBREVIATION (cont.)

Perdasus (Peraturan Daerah Khusus)	Special provincial regulation
POLDA (Polisi Daerah)	Provincial Police Command
POLRES (Polisi Resort)	Regional Police Command
PPD (Panitia Pemilihan District)	Ad-hoc Election Official at district level
PPDP (Petugas Pemuktahiran Data Pemilh)	Officer that updates the Voter list
PPS (Panitia Pemungutan Suara Desa/Kelurahan)	Ad-hoc election commission at village/Kelurahan level
PTUN (Pengadilan Tata Usaha Negara)	The State Administration Court
TPS (Tempat Pemungutan suara)	Polling Station Unit
Undang-undang Spesial Otonomi Papua	Special Autonomous Law (SAL) in Papua
UU (Undang-Undang)	The Law
UUD 1945 (Undang-Undang Dasar 1945)	The Constitution 1945

## CHAPTER I

### INTRODUCTION

#### 1.1 Introduction

16 years after the reform era, the Indonesian authorities are still struggling to penetrate democratic elections in the Province of Papua. Recently, elections there have exhibited increasing incidents of communal unrest, massive election fraud, and lack of mechanism for electoral justice. Several local elections, including a gubernatorial contest, have been disrupted by conflicts between contending parties among the indigenous elite. Papua is located in the easternmost part of the country, living with strong cultural tradition, enjoying the privileges of Special Autonomous Status and affirmative policy on social, economic and politic. For the elections, Papua uses a traditional voting method called the *noken* system involving proxy votes that are dominated by the tribal chieftains or Big Men. In the case of local elections, its allow the native Papuan ethnicity as eligible to stand as candidates. Although the state has an interest in recognizing the cultural practices in Papua, in the long run, the *noken* system will undoubtedly be an impediment to the promotion of modern democracy and political rights in the region.

A *noken* is a knotted net or woven bag made by hand from wood fibers or leaves by communities in the Papua and West Papua Provinces of Indonesia. Both men and women use them for carrying plantation produce, catches from the sea or a lake, firewood, babies or small animals, as well as for shopping and for storing things in the home. *Noken* may also be simply worn, often for traditional festivities or given as peace offerings (UNESCO, 2012). The *noken*-bag is associated within the asymmetric voting system in Papua. This *noken* system has been called asymmetric by practitioners, once because unusually the ballot paper is store not in the ballot boxes but in *noken*, and secondly because it is freighted with so much traditional cultural meaning.

For many years Papua has been a region of conflict due to the excessive military presence to suppress the Papuan pro-independence movement, a situation that continues today. Various human rights organizations have reported serious abuses, a neglect of basic rights for indigenous groups, including restrictions on the three essential freedoms of speech, association and assembly. Located in the easternmost part of the Indonesian archipelago<sup>1</sup>, Papua and West Papua remain Indonesia's poorest provinces, despite being the largest contributors to the national revenue with their rich natural resources. Researchers report considerable marginalization of the indigenous population across most socio-economic, cultural and political strata (Kompas, 2008). The Government of Indonesia (henceforth GoI) deserves blame for failing in its efforts to reduce this marginalization even after 15 years of Special Autonomous Law of Papua (henceforth SALP) and affirmative action policies in the region. Policies that are inconsistent and unclear, combined with inefficient local administration, are identified as the primary reasons for the failure, including complication of the legal adjustment that colored the recent elections in Papua.

The aim of this research is to study Papuan elections as political events that affect and motivate the stakeholders involved in their implementation, particularly the Papuan people and the GoI. This study will attempt to identify what the challenges to the elections are, while undertaking critical analysis of the interconnected legal, political and cultural issues that influence the interaction between the GoI and the Papuans. The different perceptions of nationalism held by Papuans and the GoI will also be assessed since they are an important factor in the sensitive political relationship between Papua and Jakarta (Chauvel and Bhakti, 2004, pp. 1-5).

Another aim of this research is to study in detail other factors which are likely to have contributed to the recent challenges to the election process and to see what causes for these challenges might be found in traditional cultural practices. Finally, by identifying the causes of these challenges to democratic elections in Papua, the research will be able to draw conclusion that can be use by stakeholders in their pursuit of a reform agenda for creating genuinely democratic elections in the region.

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<sup>1</sup> This refers to the western part of the Papua Island that shares boundary with Papua New-Guinea. Previously as West Papua-New-Guinea, it was later renamed Irian Jaya and more recently divided into two administrative provinces of Papua and Papua Barat by Indonesian government in 2003.

## 1.2 Statement of the research problem

Elections in Papua have been evolving along with the political dynamics of different governments in Indonesia. However, to date, elections are still surrounded by a cultural fog that makes it difficult to impose standard democratic election practices. In the past, native Papuans were reluctant to participate in elections, trying to avoid open conflict brought on by election results that were predetermined by the ruling party. Papuan leaders would allow elections to pass without voting actually taking place (Bhakti, 2004, p. 2) to avoid the conflict. We are reminded that the UN-sponsored popular consultation was prompted by the military's heavy hand in securing the political interests of the GoI in 1969 (Drooglever, 2009; Araf et al., 2011). The other elections during the New-order regime (1971-1997) also known that had been fully 'guarded' by the ruling party to legitimate the government by abuse the government machinery and utilize military to secure victory.

In more recent times, the *Golkar* Party's or so-called functional groups long political domination has faded and a more open voting system has been set up, with the introduction of transparency and accountability to secure the sanctity of the votes. Unfortunately, the provinces in Papua have experienced the least benefit from these developments. Political rivalries have brought communal unrest among the tribes and claimed many lives. Hundreds have been injured and there has been widespread damage to public and private properties. In 2012 at least eight local elections were experience a great deal of postponement in the regions of *Yapen, Jayapura, Tolikara Dogivai, Membrano Tengah, Puncak, Intan Jaya* and *Deiyai*. The local elections were finally pushed through with compromises and accommodations to local customs through the intervention of the Court, allowing cultural practices into the electoral proceedings. The Court legalized the so-called asymmetric method into the legal framework that governs local elections.

Questions surrounding the electoral framework in Papua emerge at various points. Among them is how to effectively implement policy. Even assuming a perfectly designed set of electoral laws, implementation remains a problem throughout the area for a variety of reasons. Identifying the challenges to the effective implementation of electoral law is the crucial next step to the progress of democracy in the region.

### **1.3 Research Objectives**

This study of the electoral situation in Papua focuses on the existing law governing elections and the prevailing political and cultural norms that together are likely to shape the future of elections in Papua. This will be useful for achieving the following research objectives:

- a. To analyze the challenges that hinders the creation of free and fair elections in Papua.
- b. To analyze the legal provisions that governs the conducting of elections in Papua.
- c. To highlight the discrepancies between the existing laws that governs elections in Papua and the actual implementation of the elections.

### **1.4 Research Questions**

To achieve these three objectives this research poses the following questions:

- a. What are the legal arrangements and laws used and practiced in Papua's elections?
- b. What problems in the design and implementation of the electoral laws hamper genuinely democratic elections in Papua?

### **1.5 Research Methods**

#### **1.5.1 Overall Research Design**

This is qualitative research conducted as a case study of electoral events in Papua. The main research data was gathered through in-depth interviews, library research and field observation. The research first analyzes the legal framework governing elections, sets of pertinent policies, and international norms for democratic elections. This is followed by interviews with key actor involved in the elections and eventually complement with field study in areas where elections were held. A set of

open-ended questions was used for the interviews with people who were, for the most part, experts on the topic. After receiving the informed consent of the interviewees, the researcher recorded, summarized, translated and labeled the data for later analysis. During the research activities the researcher used a voice recorder, a list of questions for the in-depth interviews, and a checklist of research tools.

### **1.5.2 Documentary Research**

To understand the overall electoral structure in Papua, the research first analyzed the set of laws that govern elections. The foundation is laid in an amendment to Indonesia's Constitution of 1945. The Constitution mandated direct elections for local governments and outlined the electoral principles to guide those elections. The analysis also looked at Law No. 32/2004 relating to regional governments, and other regulations related to elections and the administration of elections. It was also critical to study the special arrangements provided for elections in Papua. As articulated in Special Autonomous Law 21/2001 and in Constitutional Court Decision No. 47-48/PHPU.A-VI/2009 (and in other sources), indigenous political participation and the use of the traditional *noken* voting system are largely preserved. To complete the analysis of legal documents the research studied the norms and principles of democratic elections that are set forth in international covenants, conventions and declarations. For the most part, these documents are to be found in the library of the elections management body in Indonesia which are Elections Commission (*Komisi Pemilihan Umum, KPU*) and Elections Supervisory Body (*Badan Pengawas Pemilu, Bawaslu*) in Jakarta, but some of the regulations can be found online.

Second, the research studied various election monitoring reports from Bawaslu, a West Papua Election Report from the Asian Network for Free Elections (ANFREL), and a periodical report from the International Crisis Group (ICG). Finally, it was also necessary to look at reports from Araf et al., (2011), Broek and Szalay, (2011), and Chauvel and Bhakti (2004) to understand the conflicts and political dynamics in Papua, including aspects of indigenous mobilizations. Also valuable were examples of parallel movements in Bolivia and Ecuador from the writings of Schaefer (2009) and J. Heilman (2010), and other available literature that relevant to support the study. The research also studied other phenomena relating to types of leadership in the

Papuan tribes or, even more widely, leadership in Melanesia that was useful for understanding current electoral practices in Papua.

Third, the research drew upon existing election principles and norms used for guiding election practices. These are laid out in two United Nations documents, in international covenants, in the declarations and commitments of inter-state bodies, in the commitments of INGOs and also in Indonesian laws governing elections. In the light of these international and national norms it was possible to show the discrepancies in Papuan electoral events.

Studying the documents above provided the answer to the first research question, but also gave insight regarding the legal problems involved in Papuan elections. The answer to the second question came through the conclusions drawn from the field observations and interview gathering.

### **1.5.3 In-depth Interviews**

In-depth interviews targeted a variety of experts at both the local and national level. Interviewees were selected for their diverse experience - election authorities, government officials, academics, political party representatives (including Provincial House of Representatives, DPRD), key religious figures, customary/traditional leaders, non-governmental organizations, and independent figures. Priority was given to those who have been involved directly in electoral activities or related work and to those who have contributed to electoral policy in the region. The research benefited greatly by having input from official and non-official figures.

To select interviewees, preliminary interviews were conducted in Papua, particularly in the sampling area of Wamena (Jayawijaya). Some interviews were done either before or after election observation activities. After the interviews with Papuan officials and non-officials were complete, they were continued with the subjects located in Jakarta, who were mostly election-related practitioners, listening especially to their arguments and responses regarding the concerns raised by the Papuans and local election officials. In this way, the researcher obtained an understanding of both the legal and the practical electoral situation, including the ability to categorize the challenges that were brought up by the interviewees. A set of open-ended questions

was designed to guide the interviews and keep the focus on the research issues as follows:

- a. What are the main concerns regarding the Papuan local elections?
- b. Were the legal arrangements sufficient to constitute democratic elections? If No, what are the things that need to be improved?
- c. Will the asymmetric measure be a relevant response to the needs in Papua? Will it bring about higher quality elections?

#### **1.5.4 Data Processing and Storage**

The data collected from interviews were mostly recorded on digital voice recorder smart phone applications which allowed for direct transfer to temporary online storage. Online storage is accessible only with a password. Manually written notes following the consent of the interviewee were also used on some occasions. Either way, all interviews were conducted in the Indonesian language. After the labeling process, those interview records were transcribed and, together with the notes and documents, translated into written English for later data analysis. All data are treated as confidential and stored in an online system with a reliable back-up. All sensitive data is to be carefully disposed of after completion the thesis defense process.

#### **1.5.5 Field Observation**

Data were also collected from field observations, especially during the election period. These observations were important for capturing the challenges faced during the regular election routines, and for checking the actual election practices against the governing election law for possible discrepancies. This activity was very useful in shaping the research analysis.

#### **1.5.6 Research Locations**

The research was conducted in a regency of Papua that were selected because the *noken* system is widely used there. The regency of *Jayawijaya*, located in the central mountains of Papua, was selected because of the large population of the Dani or Lany tribe, which is the largest tribe in the region. *Jayawijaya* is also known

as one of the most dynamic districts in terms of political movements and rivalries among tribes during elections.

In Papuan elections, a candidate's place of origin is often a key factor for winning. Where support is divided, a mountain person will arguably stand more solidly behind candidates who are also from the mountains. The researcher visited and monitored the pre- and post-election environment in Jayawijaya. On polling day, the study was concentrated on the mountain areas, reaching out as far as possible in the areas surrounding the city of *Wamena* while using additional news updates from available media, the election commission operations center, and police coordinating center.

## **1.6 Ethics**

Most issues in Papua are generally open for formal discussion in academic work. However, some are inclined toward self-imposed discretion and censorship in discussions about issues of Papuan nationalism and self-determination. In this light, the following ethical considerations were considered wise.

### **1.6.1 Informed Consent**

In conducting the interviews, informed consent was obtained from the interviewees beforehand, being certain they fully understood the nature of an interview for academic work, that it is voluntary and independent of the government. Protection of the interviewees was the highest priority. They were offered the option of revealing their identity or appearing anonymously in the published thesis. The informed consent was extended to related organizations as well.

### **1.6.2 Protection of the Research Data**

Some comments obtained from Papuans could be controversial and thus sensitive for them and for other parties. Potentially motive for harms to come to themselves. For this reason it was important to provide reliable protection of the interview and field study data. The researcher used selective storage hardware that is

difficult to access by another viewer. The sensitive data is stored in an online system and can be easily disposed of at any time if necessary. Each interviewee's data was identified with a secret code and can only be accessed with that code. This protection also applies to interview recordings and questionnaire results.

### **1.6.3 Research Acknowledgment, Cooperation and Establishment of Contacts**

In the field research, the researcher cooperated with the electoral authorities of the Republic of Indonesia, namely, the Election Commission (*Komisi Pemilihan Umum, KPU*) and the Electoral Supervisory Body (*Badan Pengawas Pemilu, Bawaslu*). These institutions have sub-ordinate officers in the field up to the village level. They were of great benefit to this research not only for the access they provided for election observation but also for their valuable logistical information, especially in the mountains of *Jayawijaya*.

The researcher established contacts with officers/authorities and made courtesy visit to acknowledge their help. Other documents were acquired upon arrival in the region, including coordination documents to smooth the research activities with the provincial authorities. When establishing contact with officials, the researcher used both formal correspondence and informal personal channels. The research also used other informants and sources of information to establish contact and obtain necessary information.

## **1.7 Thesis Structure**

The thesis is divided into five chapters as described here:

The first chapter provides an introduction with general information containing background to Papuan elections (including attending problems), research objectives, the research questions, and the methodology used to guide the research.

The second chapter discusses Papua in relation to its politics, nationalism and election events starting at the moment of transition from Dutch era, moving on through the period as an Indonesian territory and up to the Declaration of

Independence (1961), the Act of Free Choice (1968), and the elections under successive Indonesian regimes. The chapter also presents a brief outline of indigenous democratic practices among native Papuan tribes. The last part of the chapter discusses a set of international standards for developing genuinely democratic elections.

The discussion in the third chapter is based on library research, field interviews, and the analysis of field observation. It presents the legal arrangements governing Papuan elections as well as the practical issues surrounding them. In particular, it discusses the struggle over the *noken* voting system and the Constitutional Court ruling in favor of its use. The chapter also assesses the implementation of the regional elections (head/deputy of the region) held in *Jayawijaya*.

Chapter four of the thesis presents the challenges facing Papuan elections, discussing, in particular, the constitutionality of the *noken* system and its implementation. In addition, it describes the emergence of the Big Men taking advantage of the conditions in Papua and other factors contributing to the current electoral situation.

Chapter five provides the academic argumentation and the conclusion. There is also an appendix giving important statistical information to support the argument of the research.

## **CHAPTER II**

### **PAPUA AT A GLANCE:**

### **POLITICS, NATIONALISM AND DEMOCRATIZATION**

#### **2.1 Papuan Politics: Prolonged Conflict and Nationalism**

Ethnically, Papuans are indistinguishable from the tribes of Papua New Guinea (PNG) and from Melanesian ethnic groups spread throughout the Pacific. According to the Papuan information kits published by the Australian West Papua Association in Sydney, both groups are of the same origin and are ethnically and culturally related to other Melanesian peoples in the Pacific. The island of Papua was partitioned in 1883 by three Western powers with the western half going to the Dutch, the northern part of the eastern half going to the Germans and the southern part of the eastern half to the British. Currently the western part of the island belongs to the Republic of Indonesia while the other half is the independent nation of Papua New Guinea (PNG). Under Indonesia the name of the western half of the island has changed several times. Most recently it was split into two Indonesian provinces which are Papua and West Papua (*Papua Barat*).

Conflict over Papua goes all the way back to the era of decolonization when the Dutch denied the Indonesian claim of sovereignty over the island. Instead they provided the opportunity for Papuans to establish their own independent nation under Dutch auspices. The dispute over the island continued through negotiations and military confrontation. Saltford (2003, pp. XVI-XXVI) lists the most consequential developments in the negotiations over Papua, which produced agreements in several phases from 1945 through the 1960s between the GoI and Dutch Government: the *Linggar Jati* Agreement, signed on March 25, 1947; the *Renville* Agreement, signed on January 17, 1948 aboard the USS *Renville* war-ship; The *Roem-Van Royen* Agreement (1949); the *Hague* Agreement (1949); and several proceedings in a UN-facilitated forum which failed to bring about a peaceful resolution of the West Papuan issues.

The decisive moment came when President Soekarno launched his *Trikora* (*Tiga Komando Rakyat* or People's Triple Command) campaign in December of 1961, in which he deployed troops to confront the Dutch in order to reclaim the western portion of Papua. Araf, et al (2011, pp. 20-21), Saltford (2003, p.11), and Drooglever (2009, pp. 442-443) concluded that the military campaign was carried out for various purposes. Certainly, one of the major goals was to assure majority support for the integration of West Papua into Indonesia during the popular consultation (Araf et al., 2001, pp. 45-52). Finally, the New York Agreement was signed on August 15, 1962, marking a new path toward peace in West Papua through the establishment of the United Nations Temporary Executive Administration (UNTEA), which handed West Papua over to the Republic of Indonesia while stipulating that preparations be made for a popular consultation, the so-called *Penjajakan Pendapat Rakyat* (*Pepera*) or Act of Free Choice, in order to determine Papua's ultimate future through a plebiscite in 1969.

Papuans, however, were unconvinced. They were inadequately involved in the decision-making process regarding the sovereignty issue as it was discussed by the various other parties in the dispute. Papuan elites were equally dissatisfied with the implementation of the *Pepera* in which the GoI appointed only 1,023 Papuan representatives to take decision on behalf of tribes on the island. They accused the international community of betraying them and hijacking their right of self-determination. The plebiscite was also viewed to be full of flaws since it neither followed the 'one man one vote' principle nor freed the electorate of military intimidation (Saltford, 2003, p.72). The same criticism is cited by the ICG report (2006, p. 3) and Drooglever (2009, p. xii). Drooglever further describes the actual practices during the *Pepera* which were controlled by the GoI (Drooglever, 2009, pp. 720-726.)

The questionable results of the *Pepera* indicated that Papuans wanted to be part of Indonesia and thus legitimized Indonesia's claim over Papua as an integral part of the nation since its independence proclamation. Factions in Papua refused to accept that claim and sparked resistance to it (Chauvel and Bhakti, 2004, p.1). Broek and Szalay (2011, pp. 78-92) also describe the resistance that arose among pro-independence parties over their ruined chance to achieve independent status as a

nation through the intervention of the UN and international politics. The pro-independence parties outcries the failure of De-Quay plan to forward independence through gradual evolution over a period of 10 to 25 years. Early those group are proudly witnessed their national flag (the morning star) rising alongside the Dutch flag in 1961. They had also seen their own indigenous population forming half of the newly enacted *New-Guinea Raad* (New Guinea Council). These events were seen as the prologue to Papuan independence and became the primary motivating force behind their current struggle.

Conflict broke out between the Indonesian Army (*Tentara Nasional Indonesia, or TNI*) and the armed guerilla wing of the Papuan independence movement call the National Liberation Army (*Tentara Pembebasan Nasional, or TPN*) with support from its political wing, the Freedom Papua Organization (*Organisasi Papua Merdeka, or OPM*). In comparison to the Indonesian army, the OPM was clearly far behind in terms of numbers and weaponry, not having forces substantial enough to threaten the state forces. They were poorly organized without a unified command line, fractured as they were into small groups (Araf, et al. 2011, p. 5). The independence struggle grew with the involvement of a radical student movement. The radicalization of Papuan youth grew out after the falls of New-order regime in 1998 because of student uprising in Indonesia. This motivates Papuan student group activists to intensify their campaign and has claimed responsibility for several attacks in Papua since then (ICG, 2010, pp. 2-4).

However, the TPN/OPM came to realize that the armed struggle could not bring about any lasting benefit as every attempt to attack officers or civilians would always prompt the retaliation of military operations against their fellow indigenous peoples. In 2000, after the commencement of the Papuan Peoples' Congress – II, the pro-independence faction in Papua changed its general strategy into peaceful struggle with an intensified campaign to gain support from the international community. The peaceful efforts included the use of Papuan students abroad to lobby and campaign for independence and the use of human rights issues as the major arguments to gain sympathy.

Other causes of the prolonged Papuan conflict are described by Araf, et al. (2011, pp. 9-64), Widjojo (2007, pp. 7-41), William J. Dixon (n.d.), and Alhumani

(2006, pp, 101-102). In general, human rights abuses, injustice and marginalization are highlighted in their studies as the main reasons for the escalation of conflict in Papua. Heidbuchel (cited in Widjojo, 2007, pp. 7-41), for example, outlines four reasons for the conflict: *First*, the stereotypical perception of Papuans by the rest of the Indonesians that they always brought their problems on themselves. *Second*, the issues that stem from inconsistency in government policies, human rights abuse, corruption which increases the people's vulnerability, poverty, frustration and sense of marginalization. *Third*, the demands related to national integration and unity conflict with those for independence and, for Papuans, require a revision of the historical record. Many Papuans claiming that Papua had become independent as of 1961 while the GoI, on the other hand, refuses to negotiate its official stand that Papua is part of the unitary state of Indonesia. *Fourth*, the compromise relating to special autonomy: the GoI planned to improve the situation for Papuans giving them more power. However, poor coordination in government departments and inadequate policies has hampered that effort.

Similarly, Muscat (cited in Araf, et al., 2011, pp. 9-64) claims that the conflict occurred because of extreme political and economic factors. He sees the common failure to establish economic development and to eradicate poverty as the principal cause of political, ethnic and cultural conflict and violence. Likewise, Alhumani (2006, pp. 101-102) agrees that the conflicts in Papua are simply related to economic and political issues. A similar theory is outlined by Widjojo (2007, p.2), who concludes that the Papuan conflicts arose because of four main issues. The *first* is the marginalization of, and discrimination against, the indigenous Papuan people as a result of economic development, cultural policies and mass migration into Papua. The *second* is the failure of development. The *third* is Papua's and Jakarta's contradictory views of their history and construction of a Papuan political identity. And the *fourth* is the state's accountability for violence in Papua.

In another study, Schaefer (2009, p. 398) analyses indigenous movements in Bolivia and Ecuador, He believes the conflict arose as part of a process of political expansion in which the indigenous political community responded to and participated in the economic conditions of modernity which came into being in the mid-twentieth century. Heilman (2010, pp. 505-512), in his study of indigenous political

mobilization in 1920s Peru, shows the movements arose in response to abusive authorities. In all these causes of conflict, as described by Heidebuchel, Muscat, Alhumani, as well as Schaefer and Heilman, there is a similar pattern of economic issues, injustice at the hands of authorities, and awareness of cultural and political opportunities, all leading to conflict with the tribal communities.

The picture of the Papuan conflict is not complete without a discussion of the horizontal social conflict between Papuan and non-Papuan tribes. Hundreds of tribes occupy the island and have long been involved in disputes over the land and customary issues (Droogleer, 2009, p. 2). Communal conflict has escalated sharply as the result of economic competition, increased exploration of Papuan land, and the arrival of immigrants. The conflict also has a religious component as the majority of immigrants are Muslim while the Papuans are largely Christian (ICG, 2008, pp. 1-2). Recently the conflict has expanded further due to a decentralization policy where the local government received more power and authority, and the implementation of direct elections for local government which have sharpened the competition amongst Papuans elite for political positions.

## **2.2 The Politics of Elections in Papua**

The transition to democracy from an authoritarian regime since 1999 is generally portrayed as successful. The Freedom House, on its 2010 survey has rate Indonesia as a “free country” having scored two on ‘Political Rights’ and three for “Civil Liberties”<sup>2</sup>. This conclusion is supported by Aspinall (2010, p. 20) who commends Indonesia for achieving a progress on civil liberties, the emergence of a flourishing and pluralistic media market, and freely contested multi-party elections. These achievements occurred at the same time that the military was pushed back from its commanding dominance in the political system, communal conflicts were reduced, the separatist movement in Aceh (the northern most province) was resolved through a peace agreement, and Islamic extremists were absorbed into the political mainstream.

However, this achievement in Indonesia at large does not align with the situation in Papua where civil liberties and freedom of expression are still restricted.

Those who criticize the government or express belligerent political views must face scrutiny from the security agency. Some have received harsh treatment, even torture, detention, or disappearances. Activities of the indigenous Papuans in which they exercise their freedom of expression are viewed suspiciously by authorities as threats to state sovereignty, even stigmatized as treason which usually leads to trial and imprisonment. Human Rights Watch (2010, p.5) criticized the use of criminal law against anti-corruption activists, human rights defenders, journalists, consumers and others, inappropriately characterizing their criticisms as “defamation” and “insult” to the GoI. Conoras (2009, pp. 1-3) showed more concern about ongoing repression and stigmatization through allegations made under the treason act, part of a systematic program to justify military action.

The most recent suppression of civil liberties, namely, freedom of association and expression, occurred when the Papua People’s Congress III (*Kongres Rakyat Papua* or KRP), held in *Abepura* on October 19, 2011, was dispersed by the authorities and several leaders were arrested and charged with treason as they issued a controversial declaration reiterating Papuans’ intention to form a federal state (Antara, 2011).

Despite the improbability of the political content of the KRP-III and the participants only trying to exercise their basic freedom, the GoI saw it as a sensitive issue and, unwilling to tolerate such expression, took repressive action against it. This phenomenon corresponds to the analysis of Chauvel and Bhakti (2004, p. VIII) that there is a basic difference between the perception of Papuans and Indonesia regarding its sovereignty. The situation above has occurred repeatedly with a Papuan organization expressing its desire for independence and the GoI responding with repressive measures in defense of its sovereignty.

Democratic elections in Papua also suffer from the chaotic situations brought on by electoral fraud and political violence. For instance, the last local election for the governor and vice-governor of West Papua (*Papua Barat*) ended with violence between the candidates (ANFREL, 2011). Similarly, the election for the head of government in *Puncak Jaya* also resulted with communal unrest due to competition amongst Papuan elites (ICG, 2012, p. 20). The press also reported violence with nineteen deaths in *Illaga*, eight dead at *Tolikara* and hundreds of injuries, and

uncounted public facilities damaged in various incidents (Banjir, 2012). Some elections had to be stopped to avoid the escalation of violence in at least eight regencies, namely *Yapen, Jayapura, Tolikara, Degiyai, Mamberano Tengah, Puncak, Intan Jaya* and *Deiyai*. The conflict is often deadly since law enforcement is unable to react soon enough due to a lack of personnel. Local authorities normally are able to respond only after they have received back-up from the capital.

Direct and competitive elections were newly implemented in 1999 after a previous effort suffered from poor practices while controlled by the ruling party. As in other place in Indonesia, the elections in Papua were pre-arranged and the results were pre-determined to accommodate the political agenda of Jakarta elites. These elections did not adhere to democratic principles. The winning candidates were virtually always determined by their affiliation with the political parties in Jakarta with the support of government/elections authorities. Tied to Jakarta-centric political parties and authorities for their mutual benefit, the Papuan elite influenced voters in order to gain control of local governments. Unfortunately, the Jakarta elite are often in conflict among themselves over their stakes in Papua, often bringing more trouble upon the local people.

It must be said that these efforts at democratic elections are not the first in Papua. Papuans experienced a number of elections already during the Dutch colonial period. The following are some of the most notable examples:

### **2.2.1 Democratization before the New York Agreement**

Drooglever (2009, pp. 515-534) has documented significant democratic electoral events in Papua during the era of Dutch government. He notes that an effort was fostered after Dr. P. J. Platteel became New Governor in April of 1958. Platteel designed a ten-year plan that provided for the mobilization of Papuans into the country's government, the democratization effort and the defense of the country. He established regional and Papuan councils through electoral processes. The first regional council elections in Papua were held at *Biak-Numfor City*, and eventually the council was installed on November 1959.

In the following years similar regional councils were established in *Japen Waropen*, the hinterland of *Holandia (Capital Jayapura)*, *Fakfak*, the *Rajah Ampat*

and *Merauke*. Drooglever (2009, pp. 525-527) reports an interesting development that arose from this occasion, namely, what happened if the people didn't want the traditional elite to dictate to them what to do. New elite emerged after the secret ballot election. Resistance also manifested in the area of towns like *Merauke* and *Fakfak* where the voting turnout was recorded at only twenty-five percent, as Papuans were a minority in a highly mixed population. In surrounding villages populated by Papuans the turnout was as much as eighty percent.

Later the New-Guinea Council was formed (1958) with the idea of creating a governing council through general elections. Holland's advice was to subdivide Papua into 24 roughly equal electoral districts of 12,000 – 15,000 voters plus urban center *Hollandia* and *Manokwari*. In the larger urban centers the election can imposed a direct elections, for 14 other districts indirect elections, with an elector appointed for every 50 voters, was deemed preferable. In the remaining 10 districts, located in barely opened parts of the interior, appointments, ideally based on the people's recommendations, would have to be made. People of Indonesian nationality were basically disenfranchised (Drooglever, 2009, p.529).

The New Guinea Council elections were held in stages from December of 1960 into early 1961. There were 29 seats contested, 16 of which were filled by means of the elections (direct and indirect means) while the rest were appointed persons. Interestingly, according to Drooglever (2011, p.532), there was fierce competition involving Dutch residents in *Hollandia* City where a lawyer, Olaf de Rijke, ran against the popular Rev. Mori Muzendi and won by the very small margin of five votes. Similar cases were recorded in *Manokwari* and *Sorong* with a Dutch settler in *Manokwari*, H.W.F. Gosewisch, winning, and civil servant, A.R. Van Zeelan winning in *Sorong*. There were many Dutch inhabitants in these towns and, for various reasons, Papuans also voted for these candidates. In all the rest of the locations, indigenous Papuans were elected. Twelve of the sixteen were civil servants and two were teachers. Additionally, the record also mentioned two Muslims, Achmad from the *Kaimana* delegation and Abdullah Arfan from the *Rajah Ampat*. There was just one woman among the council, Dorcas Tokoro-Hanasbey. It is noteworthy that already a decade before the establishment of the Papuan Council there were political parties and unionist organizations. For instance, in the late forties, a group of elite, Nicolaas

Jouwe, Marcus Kaisiepo and Johan Ariks run the New Guinea united movement (*Gerakan Persatuan New Guinea Party, GPNW*), but it collapsed rights after 1950. Kaisiepo then continued his activism in a trade union, namely *Perdoempoelan Sekerdja Kristen di New Guinea (Persekding)*, the indigenous section of the Christian Workers' Association of New Guinea (CWNG).

In 1957 the Democratic People's Party (*Democratische Volks Partij* or DVP) was founded in Hollandia by a broad section of people, groups with no more than an elementary education and limited vocational training. They were active propagandizing for loyalty to the Dutch and rejecting any campaign for Indonesia. The younger, more educated generation formed *Partai National Papua (Parna)* in Hollandia (Jayapura) on August 10, 1960. Initiated by Herman Wajoi and Amos Indey, Parna's goal was to collaborate with the government to accelerate the movement toward independence. The core members of Parna were educated people from the coastal areas such as Biak and Serui. They enjoyed broad support from the Papua Student Association in Hollandia, which was chaired by Amapon Jos Marey (Drooglever, 2009, p. 537).

In Manokwari, The New Guinea People's Party (*Partei Orang New Guinea or PONG*) was established on September 13, 1960 by Johan Ariks with support among the population. The core members of the The Party consisted mostly of veterans of the Papua battalions. A week later, competing with PONG, leaders of the mountain-based Arfak, namely Barend and Lodewijk Mandatjan along with Gosewitch formed the United Party of New Guinea (*Einheidpartij Nieuw Guinea or EPANG*). Both parties' platforms were similar, striving for independence over a short period of time in close association with the Netherlands. In Enaratoli, East Indies colonists formed *Kena U Embay or Kracht Uit Eenhied* (Power Through Union) November 20, 1960 with the support of the village elite. Their recurring theme was trust in the government as a father figure (Drooglever, 2009, pp. 542-543).

Another smaller party, also established in Manokwari, the *Partei Serikat Pemuda Pemudi Papua (Parsepp)*, consisted of younger people who concerned themselves with abolishing dowries. In Sorong two religion-basis parties were founded in 1960. They were the *Persatuan Christen Islam Rajah Ampat (Perchrisra)*, and the Brotherhood of Human Equality (*Sama-sama Manusia*). In both parties

muslim and Christian worked together. The Dutch were the dominant influence in the formation of the new political parties in Papua. The exception was the *Epang* party in Manokwari with its desire to be a purely Papuan party. There were also groups that openly resisted the Dutch, especially those that were established in the west coast communities such as Sorong and Fakfak. To some extent this was related to the growing extraction of natural resources in the late 1950s, especially since Indonesians were bypassed for employment. The propaganda of the NNGPM (*Nederlandsche Nieuw Guinea Petroleum Maatschappij*) against this group backfired as it prompted as pro-Indonesian by the Papuan.

In 1969 Papuans experienced another historic event, this one similar to a plebiscite for self-determination, which the local people called *Pepera* (*Penentuan Pendapat Rakyat* or Act of Free Choice). *Pepera* was authorized by Article XVIII (a) and (c) of the New York Agreement (15 August 1962) to hold consultations with representative councils as to the appropriate method to be followed in carrying out the act. The goal was to come to a final decision regarding Papuan self-determination, that is, did Papuans wish to remain with Indonesia or did they wish to sever their ties with Indonesia. *Pepera* went so far as to provide for conflict resolution as the final step toward a peaceful solution in West New Guinea.

The Act of Free Choice was to be carried out in the form of a popular consultation (*musyawarah*), using indirect voting (i.e., representatives voting for the people), a system that became controversy in the U.N. and the Dutch government. However, after long, complicated preparations under Soekarno's leadership, the consultation finally took place early in Soeharto's presidency in 1969. The *Pepera* was held without the full satisfaction of the world watching its implementation through collective consultation. That is, the *Pepera* that was held was not in accordance with the methods stipulated in the New York Agreement, Article XVIII(d), that said '*...to be carried out in accordance with international practice...*'. Although the U.N through its representative, Ortiz Sanz, was proposed mixed system of direct elections in the urban areas and collective consultation for the interior, realizing the challenges in geographic and human realities. But pressure from Jakarta and world attitude likely shaped the final implementation of the *Pepera* with the *musyawarah* method (Saltford, 2000, pp. 98-115).

In the end, a total of 1025 selected voters expressed themselves on behalf of the people in the communities they represented. The *Pepera* proceeded in stages, starting from *Merauke* and concluding in *Jayapura*. To carry out the *Pepera*, the authorities formed a DMP (*Dewan Musyawarah Pepera* or *Pepera* People's Council)<sup>1</sup> in every district. The number participating in the DMP of each district varied from 75 to 175. This number was determined by the local population with a DMP member selected for every 750 people. DMP members consisted of local district heads, political party figures, leaders of religious organizations and cultural representatives, i.e., heads of tribes (*kepala suku*), and heads of customary/traditional community or *kepala adat* (Araf, et. Al., 2001, pp. 50-55). The resulting *Pepera* can be seen in Appendix 1.

Looking back at the reality prior to the implementation of the *Pepera*, there is evidence that the military was involved in setting up conditions for winning the *Pepera*. Imparsial, a human rights monitoring group, made such allegations in its report. Araf, et al., (2011) describe a set of military operations under the command of Brigadier General Sarwo Edhie Wibowo, who assumed command of *KODAM* (military command area) *Xvii/Tjendrawasih* in *Irian Barat* on 29 June 1968. The operation, codenamed *Wibawa-I*, lasted until 22 August 1969 and routed the remaining OPMs under Sergeant Ferry Awon, securing the government's efforts to win the *Pepera* and consolidate the Indonesian government's authority in Papua. To that end, the Military Command Area integrated battle, intelligence, and territorial operations.<sup>2</sup> In a different approach, as Saltford (2000, pp. 148-150) mentions, there was the use of brainwashing to influence the DMP. He says that General Ali Moertopo was acknowledged as the chief brain washer, effectively intimidating the DMP to vote in favor of Indonesia. Various people, described how they were isolated under armed guards in camps for several weeks before the Assembly

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<sup>1</sup> DMP is a council that comprises representatives from districts in Papua, they decided what preference of their district for the *Pepera*.

<sup>2</sup> It is a non-weaponry military operation by conduct development and utilization of the elements of geography, demography and social conditions to support its main military mission.

### 2.2.2 Elections during the Authoritarian Regime

After *West-Irian* became part of the Republic of Indonesia, in the period from 1971 to 1997 there were six Indonesian general elections in Papua under the New Order regime. This period is known for strict political control under Soeharto's political directives. Thanks to the military with its dual function in national defense and political involvement<sup>3</sup> and the machinery of the government, the interests of the regime were served through the *Golkar*. *Golkar* was an Indonesian social and political organization that has evolved into a political party. It was founded in 1964 as the *Sekretariat Bersama Golongam Karya* (Joint Secretariat of Functional Groups) by a group of army generals ostensibly to counterbalance the growing influence of the Indonesian Communist Party. *Golkar* claims to represent all of Indonesia's economic and social groups (The Encyclopedia Britanica 2009).

The elections in the New-order era were orchestrated on an uneven playing field with widespread allegations of fraud. Afifudin, an NGO actor involved in elections since 1997, described the elections results in the New Order era as pre-determined during the election process with the government bureaucracy and the military command both organized to support the ruling party. At the same time, the opposition parties, the *Partai Demokrasi Indonesia* (Indonesian Democracy Party), PDI, and the religious party, *Partai Persatuan Indonesia* (United Development Party), PPP, have been systematically weakened. The *Golkar* won in all elections, legitimatizing the prolonged power of the regime, until it finally collapsed in May of 1998. Clearly, the electoral situation in Papua during that period suffered from such abuses. Bhakti (2004, p.2) refers to instances of it, describing the intimidation used during the elections. To avoid predictable violence, religious leaders in the community often 'offered' *Golkar* officials whatever percentage of the vote they wanted for their "victory". It was said that on occasion it was eighty or even a hundred percent of the vote without an election actually being held in an area, simply to avoid the conflict that would come if the request were not met.

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<sup>3</sup> The first function is preservation and enforcement of internal and external security and sovereignty of the State and secondly, as an overseer and arbiter of government policy that give justification for substations interference in politics.

In another record, Agus Sumule, a Papua State University (UNP) professor, describes an incident of Papuan resistance that occurred in the sub-district of *Sugapa, Pania*. In the fourth week of May, 1997, hundreds of people from the *Moni* tribe chased a group that was making preparations for the Golkar campaign. They warned Fritz Rumayoni, a *Camat*, (that is, a head of a sub-district), ‘Look, *Camat*, we don’t have anything against you personally. We are just tired of these elections. We have participated five times (1971, 1977, 1982, 1987, and 1992) and now we are to have another election, but we are still wearing *koteka*<sup>4</sup>.’ The *Camat* was not able to respond. The statement of the *Moni* chief perfectly illustrates the irrelevance of the general elections for the lives of ordinary Papuans during the New Order regime. Although each district in Papua had elections to select provincial and municipal assemblies, they were dominated by *Golkar* representatives, almost all of whom were civilian government personnel or military officers (Sumule, 2002, pp. 73-74).

### 2.2.3 Elections in the Reform Era

With the collapse of the New Order regime, Indonesia restructured its political set-up and that included competitive, participative and accountable elections. A snap election was called in 1999 with meaningful multi-party participation. The election was commissioned by a mixed group representing the political parties, government officials as well as independent figures. Forty-eight political parties competed in the election. The 1999 election changed the political landscape with the *PDI Perjuangan* party earning the highest vote. However, they were unable to consolidate majority support in the House of Representatives in order to gain the presidency for their leader, Megawati Soekarno Putri. Instead, K. H. Abdurahman Wahid (Gus-Dur), the supreme leader of the *Nahdatul Ulama (NU)*, was elected to be president after the political maneuvering of the *Poros Tengah* (Center Axes) Coalition, led by Amin Rais. But two years later, Megawati did take over the presidency after

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<sup>4</sup> Koteka is a penis gourd or penis sheath is a phallocrypt or phallocarp traditionally worn by native male inhabitants of some (mainly highland) ethnic groups in New Guinea to cover their genitals. They are normally made from a dried out gourd, *Lagenaria siceraria*, although other species, such as *Nepenthes mirabilis*, are also used.

Gus-Dur was impeached. Table Two shows electoral dynamics in the New Order and Reform eras. Table Four shows the election results for the 1999 snap election<sup>5</sup>.

With the PDIP's time in power being so short, the political mainstream in Papua has not changed appreciably. *Golkar* is still able to dominate the political scene, its machinery still alive and proven strong. From the election 2004, and 2009, *Golkar* still dominated the acquisition of ballots in Papua. See the results of the 2009 election in Papua and Papua Barat at tables 8 and 9. The finest *Golkar* leaders and businessmen, Jusuf Kalla, was gradually able to reconsolidate the party and during the presidential elections formed a tie with a rising popular army general who was rising in popularity, Susilo Bambang Yudhoyono (SBY), from the newly emerging Democrat Party (PD), naming him as his partner on the *Golkar* presidential ticket. Indonesian voters welcomed the combination of the clean, charismatic ex-general with Jusuf Kalla, effectively motivating non-Javanese voters. They won the election and took office as president and vice-president. The results of the 2004 elections can be seen in Table-5.

The remaining three elections in the Reform Era saw the continuing dominance of the *Golkar* and Democratic Parties in the parliamentary elections. Likewise, at the local government level (governor, mayor and bupati) the candidates from those two major parties won seats in the various bupati and mayoral elections. Data from the Department of Autonomous Regions on the Ministry of Interior's website (2013) shows that the *Partai Demokrat* or its coalition won thirteen local elections in *Boven Digoel*, *Merauke*, *Pegunungan Bintang*, *Jayawijaya*, *Yapen*, *Puncak Jaya*, *Yahukimo*, *Mappi*, *Keerom*, *Mamberano Raya*, *Lanny Jaya*, *Puncak* and *Dogiyai*. The details can be seen in Table 11.

Political negotiations in Papua is an interplay of at least three party interests, the political actors in Jakarta (mainly the ruling party), local elites, and other interests (primarily the business and military sectors, all of which dictate political outcomes in Papua. During the ten-year rule of the popular Susilo Bambang Yudhoyono, the Democrat Party rapidly developed a presence in both the structures and the finances of the party with an impact on the political situation at large in Papua.

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<sup>5</sup> A snap election is a general election held sometime before the schedule or before the due time of the recent parliament/president. Also called an early election.

PD has become a strong ally for the local elite in the land as could be seen in the last six local elections (*Tolikara, Peg, Bintang, Jayawijaya, Yahukim, Mamberano Tengah, and Timika*). With cooperation between the local elite and the PD, they were able to effects a sweeping victory in those regencies. This also included the election of a PD's chairman, Lukas Enembe, as Governor of Papua in the 2012 elections.

### **2.3 Indigenous Democracy in Papua**

Geographically, the indigenous communities of Papua are divided into several groups based on the location of their ancestral homes. Mansoben (1994, cited by Djojosoekarto, 2008, pp. 6-10), described how the well-known diversity of the Papuan people is closely related to socio-economic patterns of adaptation to the major ecological zones on the island. There are at least four major ecological zones: First are the wetlands, the coastal areas and estuaries or deltas; second are the coastal plains; third are the lower mountains and small valleys; and fourth are the high mountains. These ecological environments affect the patterns of adaptation among Papuans which, in turn, are reflected in their systems of livelihood, including their use of technology and their division of labor. Increasingly complex technology and systems for dividing labor have been followed by other more complicated cultural factors such as social organization, ideological systems, and religious ritual.

Hundreds of different tribes with different languages are living in tribal societies with different political systems in different ecological environments. In the highlands, leadership is gained through individual achievement (one man achievement). In the coastal areas, leadership is gained through inheritance. In the swamps, coastal and head-rivers, leadership comes through a combination of heritage and achievement. Until the introduction of modern democracy, formalized by ballots and majority votes, the type of so-called democracy in these regions for centuries was individuals acquiring authority by inheritance (Djojosoekarto, et al., 2008, p. 10).

However, the tribes claim to have been practicing democracy to some degree in their decision-making for centuries. The Rev. Socrates Yoman, a religious

leader and a *Nduma*<sup>6</sup> in the Lany tribe, argued that the Lanys living in the central mountains of Jayawijaya have always practiced tribal democracy through their communal procedures prior to making any important decision, whether it be to open a new farm, declare war, or set up marriages. In all such cases the Lany tribe convenes to share opinions, thoughts, and advice before making a decision. The tribe members make no arbitrary, personal decisions, but rather, community decisions which the Lany see as a democratic process (Socrates, 2010, p. 128)

That said, despite the fact that the tribes held conventions before making a decision, in general, decision-making is most likely to follow the guidance or prior decision of the strong men, known as Big Men, within the tribes. This system is said to be a paradigm of tribal supremacy, teaching loyalty to the tribe no matter what (ANFREL, 2011, pp. 23-24). In these situations, if there is an occasion calling for a democratic procedure, it is difficult to achieve one man/one vote since most of the decisions are pre-determined in the name of tribal practice, with, of course, great potential for abuse. Poverty, illiteracy, lack of political awareness, and the difficult geographic situation are some of the factors that allow these practices to persist.

The Big Men not only project their power and control but also demand loyalty from the tribesmen, expecting them to follow their commands, including a political decision made by means of elections. The Big Men determine what they believe would be best for the tribe and are intolerant of any challenge to their decisions. A challenge is often interpreted as a betrayal or an undermining of their power, often culminating in conflict within the community. Francis Fukuyama recognizes the Big Men as a cultural phenomenon in Melanesia's form of leadership as well as in those of neighboring Papua New Guinea (PNG) and the Solomon Islands. He makes the point that the Big Man is one of the challenges that needs to be overcome in order to promote a viable electoral regime for a liberal democracy (Fukuyama, 2011, pp. X-XI).

The Big Men are associated with a highly valued cultural event. On polling day the Big Men typically sponsor what is called a *bakar batu party* and in the

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<sup>6</sup> Nduma is the highest and prestigious title given to person in the Lany tribe, as recognition and mandate to act and become a great leader to bring peace, prosperity, and protection over the Lany's people.

central mountains it has other names, while in Wamena it is called *Kit Oba Isogoa*, or is generally known as *barapen*. The Wisata Papua website (2011) describes *bakar batu* as a traditional ritual that serves various purposes, celebrating such things as thankfulness for abundant blessings, weddings, the reception of distinguished guests, peace after war, as well as observing funerals. Silak (2011, p.61) describes the killing and eating of a pig or wild boar as a vital element in the ceremony. This sacred animal has immeasurable mythological, spiritual, communal and social status for Papuans.

In the past, the elections were held only in the capital of the regency with the tribes having no input at all regarding the location. The ballot paper that distributed to the sub-districts were all recollected and brought to capital *Jayawijaya, Wamena*. With the recent promotion of direct voting, the native people now have the opportunity to choose candidates they prefer and to divide their tribes into several groups supporting different candidates. Hostility between candidates prompted the tribe to treat elections as similar to *O-wim* (conflict or war in the village). They divided into warring factions hoping to gain property as the prize of battle. Even those who lived together in the same house equipped themselves to do battle with other members of the household. But, amazingly, those who had fought with each other later came back to the same house, living in harmony again when the election was over (Silak, 2011, pp. 58-59).

### **2.3.1 Noken Voting System**

Noken have been used for some time in Papuan elections, although no one is sure when they first came into use. Experts believe it was already in use during the New Order era but has only recently become widely known. The use of *noken* for elections entered the mainstream consciousness after an electoral dispute from the *Yahukimo* regency in the 2009 parliamentary election was lodged with the Constitutional Court. In that case, the focus was on the use of the *noken* as an impediment to fair elections. The complainants viewed the *noken* system as illegal in that it was subject to political muscle and money, thus breaching a key principle of democratic elections. However, on 9 June 2009, in decision No. 47-48/PHPU.A-VI/2009, the court ruled that the *noken* is allowable. As a result of that ruling, it

appears that the *noken* system has become an acceptable mechanism for balloting, particularly in the interior regions of Papua.

The Court argued that, because of the cultural background in Papua, an affirmative policy was needed to facilitate their elections and thus allowed them to conduct the balloting according to their local practice. Sodiki, a CC judge, describes in more detail how the *Yahukimos* conducted polling by placing the marked ballot into the *noken*. He also points out that the *Yahukimos* live in a society of great solidarity where unity and uniformity are emphasized and there is no room to compete individually against the very central position of the leader. Nor is there division of labor or labor differentiation. The same leader may serve as a warlord, a shaman, or a judge who prosecutes in a dispute. Therefore, the concept of representative democracy as we understand it is thus far still alien for them (Durkheim, cited by Sodiki, 2009, pp. 2-3).

The court proceedings reveal that the *noken* method was identified with communal consensus including the cultural festival through which the tribal chief gathered the villagers in preparation for bringing about consensus on the casting of their votes. As soon as there was consensus the voting was carried out by the chieftain casting a symbolic ballot on behalf of the entire community. Meanwhile, the usual cultural activity, called *barapen*, was going on. The youths and women prepared holes in the ground filled with hot stones for cooking wild-boars, sweet potatoes and vegetables. The cooking was followed by traditional chants and dances. While the people enjoyed themselves dancing and eating, the chieftain and his aides were busy marking the ballots that had been inserted into the *noken* bags. The resulting tallies were reconciled and entered on the appropriate electoral form. The court record also stated that the same system was used during the 2009 presidential election, but on that occasion the voters cast the ballots themselves using the appropriate *noken* bags for those candidates that had already been agreed upon by the community. At first glance, the *noken* bags appear to be an unnecessary but harmless substitute for ballot boxes. However, the critical point is that community consensus was still used to predetermine each individual's vote going into the *noken*.

Of course, this method of voting contradicts the constitution-mandated democratic elections and election principles, known by the acronym *LUBER*

(*Langsung Umum Bebas dan Rahasia*) or direct, general, free and secret, as well as other pertinent regulations. The Court argued, however, that, if the elections are not conducted with the *noken* method, it will create hostility among the *Yahukimos*. They do not want to be divided on the basis of political affiliation. Therefore, they prefer developing consensus (*musyawarah*) or holding prior discussion about which candidates or parties will be most beneficial for the tribe and vote according to that community decision. In the case of *Yahukimo*, the Court has tried as best it could to walk a middle course between traditional cultural practices and liberal democratic election practices.

From the legal perspective, the Court's decision regarding the *noken* system has certainly complicated the administration of the elections. The EMB had to find ways to accommodate the Court's verdict into the existing legal arrangements and maintain order in practice. The KPU Papua, after considering many factors, has issued a technical guideline on the implementation of the *noken* system, hoping to regulate it and create uniformity of practice. To this end, the KPUD enacted regulation No. 01/Kpts/KPU.Prov.030/2013 as a procedural guideline for voting with the *noken* system.

## **2.4 Instruments for Developing Democratic Elections**

Genuinely democratic elections are prescribed by various international and regional human rights standards that are to be ratified by states and then adopted to form the basis for national legal systems. The primary international document regarding democratic elections is Article 21(1) of the Universal Declaration of Human Rights (UDHR, 1948) which recognizes the right of the people to take part in their governance by means of the direct election of their representatives. The UDHR's Article 21 (3) also guarantees "...expression of the people's will through periodic and genuine elections which shall be by universal and equal suffrage, and shall be held by secret vote or by equivalent free voting procedures."

The International Covenant for Civil and Political Rights (ICCPR, 1966), Article 25, also stipulates that elections must be genuine and respectful of "the rights

and freedom of individuals without distinctions and unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.”

Together, the UDHR and ICCPR are the core international human rights conventions recognizing the universal right to genuine elections. In 1996, following the lead of the ICCPR, the Office of the High Commissioner for Human Rights (OHCHR) of the United Nations adopted General Comment No. 25 on “the right to participate in public affairs, voting rights and the right of equal access to public service”. Article 25, Paragraph 1, of the General Comment provides details for those points. Paragraph 4 goes on to stipulate the right of individuals in a state to engage in elections without discrimination regarding race, color, sex, language, religious, or political affiliation (Paragraph 4 of the General Comment) These stipulations do still allow for reasonable criteria to define voter eligibility such as age ranges and mental capacity.

Other relevant United Nations treaties related to voter suffrage focus on various specific groups, such as Article 7 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979); Article 29 of the Convention on the Rights of Person with Disabilities (CRPD, 2006); Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, 1969), which calls for elections without distinction as to race, color, or national or ethnic origin; and the Declaration on the Rights of Indigenous People (2007). These treaties and covenants recognize the rights of all citizens to be included in the election process.

The Compendium of International Standards for Elections (2007, pp. 68-108) lists the various regional documents that establish the norms of universal suffrage for their respective regions. Among these are the American Convention on Human Rights (1969), adopted by the Organization of American States (OAS); in Africa, the African Charter on Democracy, Elections and Government (2007); and the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) adopted by European states in 1950. These documents are but a few examples of

regional treaties that are legally binding under international law. A more advanced standardization regarding democratic elections has been promoted by the Inter-Parliamentary Union (IPU) in its Declaration on Criteria for Free and Fair Elections (1994). The IPU has also produced The Universal Declaration on Democracy (1997) and established a framework for good democratic practice in parliaments with its Guidelines on the Rights and Duties of the Opposition in Parliament (1999).

Likewise, civil society groups have also contributed actively to the promotion of standardized elections. For instance, the focus of Asian NGOs on elections, ANFREL, in collaboration with the EMB (Electoral Management Bodies) launched a document in 2012 entitled The Bangkok Declaration on Free and Fair Elections as an effort to promote universal election principles within the diversity found in Asia. This is designed to be an alternative to the ambivalence and passivity of regional inter-state organizations that fail to provide platforms for promoting the principles of free, fair and democratic elections. The Bangkok Declaration contains 22 articles that address all aspects of democratic elections including the pre-election period, the election period, as well as complaints and electoral disputes. Subsequently, the Indicator of Democratic Elections has been released in Dili, Timor-Leste, as a follow up to the Bangkok Declaration, providing indicators to measure the quality of elections.

Furthermore, the efforts of other international organizations concerned with the development of democratic elections have had a huge impact. For instance, the Carter Center, founded by former US President, Jimmy Carter, has compiled over 200 sources of public international law dealing with human rights. These documents go well beyond the core international and regional legal documents most commonly used as the basis for considering election standards. They provide substantial additional guidance for the understanding of international electoral obligations. Among these documents are treaties with *opinio juris* power as well as non-binding instruments and documentation of customary law such as declarations and resolutions. The focus on strengthening democracy worldwide is just one of several at the Carter Center.

The table in Appendix 14 shows in a systematic format Public International Law (PIL) which outlines the principles of democratic elections. It is a

combination of two approaches that modify the use of international law to assess elections as published by Roberts and Carroll in 2010. One is the international obligations regarding democratic elections. The other is the constituent parts of the relevant international obligations. Both are laid out according to the sequences of an electoral cycle as presented by Paul Guerin (2007). The electoral cycle includes pre-elections, election-day, and post-elections up to the next election

An electoral expert, Patrick Merloe, takes another approach with the view that elections are related to the protection and promotion of human rights and a critical measure of an election is the extent to which the population believed it was free to exercise its right to political expression, association, assembly, and free movement as part of the election process. He defined the essence of democratic elections with the following principles:

#### **2.4.1 Respect for human rights and absence of intimidation.**

The election is a test of how a range of institutions are functioning in a country and how the promotion and respect for human rights – particularly civil and political rights – are carried out in practice. The people must perceive that they are free to exercise their rights, are adequately informed to do so, and have confidence that the electoral process will accurately reflect their choice (Merloe, 1994a, p.2).

#### **2.4.2 Non-discrimination.**

Merloe argues that it is central to place democratic elections in the context of international fundamental rights, free from discrimination on the basis of race, color, sex, language, religion, national or social origin, birth or other status such as property or political or other opinions. This standard is found in every major international human rights instrument. These rights are to apply in all electoral processes and phases. They include the right to be equal before the law, the right to protection within the law, the right to effective remedy for acts violating fundamental rights, the right to timely and effective enforcement, and the right to an effective complaint mechanism and the recourse to an independent judiciary (Merloe, 1994a, p.3).

### **2.4.3 Public confidence.**

In Merloe's view, the elections are not only a technical procedure, but are also a political process in which public confidence is essential. Sound electoral law and procedures are necessary but are not enough. The public, including the political contestants, must believe that the electoral process will be effectively and impartially implemented. Steps must be taken, therefore, to ensure that the electoral process is not only administratively correct, but is free from even the perception of partisanship. Building public confidence in the electoral process must include:

- a. Setting up effective and impartial elections apparatus;
- b. Involving the political contestant in essential election processes;
- c. Transparency through the independent and non-partisan observation of citizen and civic organizations;
- d. Convincing the electorate of the importance of the elections, that their personal safety and ballot secrecy are ensured and that the electoral results will be respected (Merloe, 1994a, pp. 4-7).

### **2.4.4 Level playing field.**

This is important to create satisfaction for the candidates and the political parties and for public trust. The creation of a level playing field begins prior to the campaign period with political party registration, candidate and party qualification for the ballot, delineation of electoral districts, and non-discriminatory voter registration. Fairness in the campaign determines the over all fairness of the election process. This includes adequate resources for candidates as well as election administrators, clear regulations regarding the use of government resources, and equal access to the media by political contestants (Merloe, 1994b, p.1).

At the national level, Indonesia also makes provisions regarding democratic elections in its constitution and bylaws. The democratic way of life first stated in the preamble of the constitution is reiterated by the election principles adopted by Indonesia in Article 22E(1) which outlines, "General elections that shall be conducted in a direct, general, free, secret, honest and fair manner", and Article 22E(5) refers to the independent character of the general elections commission (electoral bodies). The constitution also set up the Constitutional Court to solve the disputes, the

CC decision is having nature as *inkracht van gewijde*<sup>7</sup> in accordance with Article 24C of the Constitution, and also have a *erga omnes*<sup>8</sup>

These three constitution articles are essential to creating the foundation for democratic elections. And beyond that, Indonesian election laws are very supportive of the universal franchise, including access for minorities and persons with disabilities, independent candidacy, relatively fair campaign arrangements, and adequate public participation to ensure transparency and accountability as set up in various constitutional by-laws.

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<sup>7</sup> Final Judicial decision, it is a binding and exhaustive.

<sup>8</sup> Constitutional Court's decision is binding for the applicant, but also binding and must be adhered to every citizen and institution in Indonesia.

## **CHAPTER III**

### **RECENT PAPUAN LOCAL ELECTION – LEGAL ARRANGMENTS AND IMPLEMENTATION**

#### **3.1 The Recent Papuan Electoral Situation**

Since the referendum held in 1968, there have been many elections for various representative and leadership positions in Papua. However, Papuans have come to know competitive elections only since the GoI began decentralization in 1999, and then continued holding local elections in 2006. Since then, Papuans have experienced three types of direct elections: (1) general elections to choose the national assembly (DPR), regional representatives (DPD), the provincial assembly (DPRD) and the regency/municipality assembly (DPRD *Kab/Kota*). (ii) the presidential election, and (iii) local elections to choose the heads of local government, including governor/vice-governor, mayor/vice-mayor, and *bupati/vice-bupati*. In general, national elections were conducted smoothly since they were competitions for national seats. But the local elections were highly competitive embedded as they were in rivalries among tribesmen. The recent elections in Papua exhibited an increasing incidence of communal unrest and massive electoral fraud during which the mechanism to ensure electoral justice was inadequately implemented.

During the local elections from 2012 to the present there have been several local that were postponed or for which results remain pending due to conflicts among the contending parties. Disputes over the interpretation of the law and over voter lists are among the reasons for the delays. It is typical of Papuan elections that they are settled only with the intervention of the States Administration Court (PTUN) and the Constitutional Court (MK). The most recent elections for the governor of West Papua (*Papua Barat*) ended with violence brought on by the dissatisfaction of the candidates with the court that made the final decision in their tight competition (ANFREL, 2011, p. 29). The election for the head of regency in *Puncak Jaya* resulted in communal conflict triggered by rivalry among the tribal elite (ICG, 2012, pp. 20-21). The press

also reported nineteen deaths in District Illaga and eight dead in *Tolikara* Regency, with hundreds of injuries and untold damage to public property in multiple incidents. Elections were frozen to avoid the escalation of violence in eight regencies, *Yapen, Jayapura, Tolikara, Degiyai, Mamberano Tengah, Pucak, Intan Jaya* and *Deiya*, all located in mountain regions. Dealing with what amounted to tribal war, the police forces found it difficult to maintain order due to a shortage of personnel (Banjir, 2012).

Electoral fraud also contributed to Papua's chaotic elections. Allegations were reported at various stages of the electoral process and involved various electoral stakeholders, including election officials as well as government officials. The use of money, the involvement of strongmen and apparent interventions from Jakarta were seen as contributing to the success of some candidates running in Papuan elections. In such circumstances it is hard to establish free and fair competition. The situation is even more fragile since there is inadequate law enforcement and an ineffective electoral justice system. With the Papuan elite repeatedly playing games with the electoral process, Jakarta practitioners and political analysts are losing hope that the Papuan tribes spread throughout the interior mountain regions are ready for democratic elections. In the mountains most of the people live in *honai*, traditional houses, and the communities practice tribal customs, maintaining a stone-age lifestyle with a strong belief in the order established by tribal strongmen.

These conditions reflect the prevailing electoral situation in Papua. They also provide the motive for this research to take a close look at local election issues in Papua by assessing the legal arrangements at play there and to study the implementation of the elections in *Jayawijaya*, a representative region or one of several regions with similar issues. The findings are discussed below.

### **3.2 Legal Arrangements and Controversies**

The framework that governs local Papuan elections was laid out by the 1945 Constitution. Article 18(4) mandated that “the head of regional government of the provinces, regencies and municipalities shall be elected democratically”. This is in accord with the decentralization stipulated in Article 18(a) addressing the degree of

authority or administrative power allocated to the provinces, regencies and municipalities. Additionally, the Constitution recognizes the rights of all citizens to have equal opportunity for participation in government (Article 28D). Article 18 (B), in turn, gives recognition to local customs and cultural practices to the extent that they still exist in the society. This article has been the primary basis of argumentation by the Constitutional Court in its endorsement of the *noken* voting system, which later became the subject of debate as to whether it contradicts the electoral principles stated in Article 22E (1) which stipulates, “General elections that shall be conducted in a direct, general, free, secret, honest and fair manner”. The Indonesian bylaws and regulations provide a more detailed explanation of the legal arrangements. This discussion, however, will focus on just those legal points pertaining to the following classifications:

### **3.2.1 Laws relating to local government and local elections**

Law No. 32 on local government (2004) mainly provides details on arrangements for the duties and obligations for the direct elections of regional leadership in accordance with Article 24(5). Initially, Section 8 of the law only allowed for a candidate to be nominated as part of a political party’s ticket, the candidate being proposed as part of a pair, namely, the head and the deputy office in each province, regency or municipality. The political party or parties could register candidates in number up to the threshold of local legislative seats (DPRP and DPRD of *Kabupaten/Kota*), or 15% of the votes accumulated in the previous legislative elections.

Law No. 32 (2004) also authorizes the Elections Commission in the province and *Kabupaten/Kota* to administer the local elections in accord with the national KPU and to report to the regional House of Representatives (*Dewan Perwakilan Rakyat Papua*, or DPRP). This includes provisions that detail the duties and obligations of the Provincial elections Commission, namely, to obtain the administration of fair and accountable elections through a process determined beforehand for both the preparation and implementation phases, as stipulated in Articles 65, 66 and 67. The elections are to be carried out according to the following procedures:

- Verification of candidacy is to be done based on Article 59A which gives details as to the duty of the KPUD Papua to manage the process of verification for the gubernatorial candidates and is to be assisted by the KPUD (Regency and City Level), the PPK (*Panitia Pemilihan Kecamatan*, or District Elections Committee) and PPS (*Panitia Pemilihan Kelurahan*, or Village Elections Committee). The verification for mayoral and head of regency candidates is to be conducted by the KPUD. This verification process is applicable for local elections throughout Indonesia with the sole exception of Papua.<sup>5</sup>

- Voters' eligibility is to be set at the minimum age of 17 at the time of registration and/or to be married. The voter needs to register in advance and ensure that his or her name is listed in the voter registration as prescribed by Article 68 and 69 of Law N. 32.

- Provisions relating to the methods and prohibitions in election campaigning, as well as the sanctions for violations, are stipulated in Articles 75 – 82. Campaign finance, audits and the receiving of donations from particular sources, as well as the sanctions for violations are outlined in Articles 83 – 85.

- Voting, counting of ballots and certification of the results are all set forth in the fifth paragraph of the Law. Article 86 states that voting is to take place at least a month before the term of the incumbent governor, mayor or head of regency are to end. It provides for the use of a paper ballot (Article 87), the technique of voting (Article 88), assistance for persons with disabilities (Article 89), the number of voters at each polling station and polling station set-up (Article 90), ballot boxes (Article 91), polling procedures (Article 92), and the counting process (Article 96) right on through to the certification of the results at the REMC level (Article (102), including re-count and –re-poll provisions.

- In the case of dispute over the elections results, Article 106 provides options for appeal through the jurisprudence of the Constitutional Court.

Law No. 32 on regional government (2004) has been amended on two occasions. This came in response to legislative alterations and judicial reviews by the Constitutional Court, as well as to evolving political and electoral dynamics. Law No. 32 was corrected and given new provisions that incorporate the following details:

- Government Regulation in Lieu of Law (PERPPU) No. 3 (2005) is the first amendment to Law No. 32 on local government (2004). Here the government added three new articles. Article 236(A) anticipates situations that may arise due to natural disasters, riots, insurgencies or other occurrences that might disturb local elections. In such cases, the election may be rescheduled according to government regulations. Article 236(B) provides a legal basis for governmental units, both central and provincial, to provide any kind of assistance necessary to guarantee the conduct of the elections. And Article 90 describes maximal voting populations at each polling station, namely 600 voters, including those in need of special accessibility.

The Government Regulation in Lieu of Law was later affirmed and strengthened by Law No. 8 (2005) which was formally enacted as the first amendment to Law No. 32 (2004), providing a legal basis for postponement in response to emergencies or riots that might hamper free and fair elections.

- The second amendment to Law 32 (2004) is Law No. 12 (2008). The essence of this amendment is to provide the legal basis for the participation of independent candidates in local elections in accordance with a Constitutional Court order. The law provides for eligible independent candidates to contest an election by obtaining support from a certain percentage of the current population in accordance with Article 56. Since the population count varies from one area to another, the percentage of support is calculated as follows: 6.5 percent support for population up to 2 million; 5 percent for a population between 2 and 6 million; 4 percent support for a population between 6 and 12 million; and 3 percent support for a population above 12 million. This support has to be proven by presenting each individual's support statement along with a copy of his or her identity card (Article 59).

This amendment also includes provision for the temporary replacement of the heads of government or the deputy heads of government, who may die in office, resign or are in such dire condition over a period of six consecutive months that they are unable to continue performing their duties. According to Article 26 of this law, if the head of government's position is vacant for any of these reasons, the vice-head of government is to fill the position. If the deputy head of government position is vacant with at least 18 months remaining in the term, the law mandates a political party or coalition of parties (if the vice-governor was nominated by a political party ticket) to

nominate two candidates for final selection by the House of Representatives Assembly. In the case of an independent vice-head of government, the head of government is to propose two candidates for final selection by the DPRD Assembly.

### 3.2.2 Laws and provision related to asymmetric elections in Papua

Law No. 21, Special Autonomous Law of Papua, SALP (2001), became the main reference for elections under the *lex specialis* (special laws) or asymmetric method. A few of the pertinent provisions in this law are:

- Articles 7 and 20 of the SALP (2001) deal with the involvement of the DPRP (Regional House of Representatives) and the MRP (Papua People’s Council) in the candidacy verification process. The DPRP is given the power to elect the Governor and Deputy Governor, to propose the appointment of the elected Governor and Deputy Governor to the President of the Republic of Indonesia, and to propose the dismissal of the Governor and/or Deputy Governor to the President. Article 20 of the SALP also specifically authorizes the MRP to provide consideration and approval of the candidates for governor/vice-governor that are proposed by the DPRP.

- Article 12(a) of the SALP (2001) requires that the candidates for the position of Governor and Deputy Governor be native Papuans. In the preamble to the law, native identity is defined as a “Melanesian ethnic who is born from Papuan parents with the physical characteristics of ‘black skin’ and ‘curly hair’”. The same applies to candidates for major/deputy mayor and *bupati*/deputy *bupati* offices.

- Article 43 of the SALP (2001) requires the government to protect the *adat* community’s rights including the *ulayat* right of the community at large as well as the rights of the individual members of the community. These laws are to be exercised in accordance with the local *adat* authority. This may serve as the basis for a legal struggle among electoral stakeholders regarding authority, limitations of authority and procedures in Papuan elections.

- Constitutional Court Decision No. 47-81/PHPU.A-VII/2009 on Electoral Dispute in Yahukimo was in response to a dispute during the 2009 parliamentary elections in which the practice of voting with the *noken* system’s acclamation method was refused by the candidates as electoral fraud. The judge ruled in favor of allowing the *noken* system on the legal consideration of providing space for

cultural practices in Papua. To date, the Court's decision continues to give legitimacy to the use of the *noken* system in Papua's election procedures.

- Constitutional Court Decision No. 3/SKLN-X/2012 pertains to the dispute regarding the state's authority over the election management body in Papua. This was not the result of legislation, but rather, a legal settlement regarding disputes caused by two conflicting laws pertaining to the authority of the KPU and the DPRP that had given both entities a claim to authority over the management of elections in Papua. The DPRP claimed this right from the *lex-specialis* and the mandates of Law No. 32 (2001), while the KPU claimed its authority from Law 22 on Electoral Management Bodies (2007). The Court, while realizing the conflict in the state's relevant laws, also recognized the importance of both entities being involved in the process. In its wisdom, the Court eventually ruled that the KPU should act as the authority to administer the elections, but also acknowledged the role of the DPRP in the process by assigning it the task of approving the seven pairs of candidates who had already been registered with the DPRP. Additionally, the Court also ordered the National Elections Commission, through the Papuan Provincial Elections Commission, to re-open candidate registration within thirty days after the Court's order and to ask the DPRP and MRP to consider new candidates.

- The Decision of the Papua Elections Commission No. 1/Kpts/KPU (Prov/030/2013), provides directives on the conduct and procedures of elections utilizing the *noken* system, and defines the function of the *noken* bag as a substitute for the ballot box in the polling station during voting. The regulation further stipulates how the polling and counting is to take place when the *noken* system is used. In this provision the Election Commission is clearly classifying the *noken* voting system as lying within the principle of the secret ballot.

These are the main legal documents that govern local elections in Papua. They are arranged top down from the Constitution to its By-laws and court rulings. These legal provisions outline the entire electoral cycle covering election administration, candidate registration, voter registration as well as campaigning, voting, ballot counting and dispute resolution. This discussion of the legal documents has focused on what are generally regarded as normative principles for democratic elections in Indonesia, that is, 'direct, general, secret, honest and just.' (In the

Indonesian language it is called *Luber* and *Jurdil*, an acronym derived from *langsung, umum, bebas, rahasia, jujur* and *adil*).

In general, Indonesian election law has followed the basic international principles stipulated in the UDHR (1948) and ICCPR (1966) and other models. Nevertheless, this study recognizes gaps between the implementation of local elections in Papua and the common practices elsewhere in Indonesian elections. Arguably, the gap is caused by the Special Autonomous Status enjoyed by Papuans as a result of political negotiations with the central government. The Special Autonomous Law of Papua (SALP) includes the provision in Article 12(a) to allow only ‘native’ Papuans as eligible candidates in all local elections. In addition to that, Article 43 of the SALP also stresses respect for local customary practices which has become the basis for using the *noken* system. As outlined earlier, this system was eventually endorsed by the Constitutional Court as the formal process in Papua. These have become contentious issues, triggering ongoing debates.

As mentioned, Article 12(a) of the SALP limits the eligibility for candidacy to native Papuans only. The identification of the ‘native’ is further specified in the preamble of the SALP as a person from a Melanesian ethnic group who was born of Papuan parents with the physical characteristics defined as ‘black skin’ and ‘curly hair’. To facilitate the verification, Article 20(1) of the law also designates that the Papua People’s Council (MRP) to consider and certify the candidates. The MRP, as the executive agency for Special Autonomy, has the authority to protect the cultural rights of the indigenous community such as respect for its customs (*adat*) and culture, empowerment of women, and stabilization of a harmonious religious life.

Indonesian lawmakers and the GoI granted the SALP (2001) affirmative action to minimize the social and economic gaps, and to improve the living standard of the Papuan people. The GoI and the legislature realized that the administration of economic development was not satisfactory to the Papuan people, and law enforcement also failed to protect them from human rights abuses. Despite a wealth of natural resources, the living standard of the natives is poor, creating a deep gap between Papua and other Indonesian regions. The implementation of the special policy is grounded on basic values covering the protection of and respect for the essential

rights of the natives - human rights, the supremacy of law, democracy, ethics and morals, pluralism, and equality in their position, rights, and obligations as citizens.

### **3.3 Papua elections practice: A case study of local elections in Jayawijaya, 2013**

*Jayawijaya*, with its capital, *Wamena City*, is located in the *Baliem Valley*, strategically positioned in the heart of the central mountains, the access point to reach the surrounding regencies of *Lanny Jaya*, *Yalimo*, *Yahukimo*, *Mamberano Tengah*, *Mamberano Raya*, *Tolikara* and *Puncak* by land transport. Once it became an economic hub, it also became important politically as well, where a much-contested race leading to victory in this regency may well determine further victories in neighboring regencies. Inhabiting that position of influence, *Jayawijaya* recently conducted local elections to choose its head of regency and its deputy. The election was held on 19 September 2013 with 186,098 registered voters distributed among 457 polling stations, located in 332 villages in 40 districts of the regency. The polling was conducted using the *noken* system.

The election finally took place after the Constitutional Court and the EMB's Honorary Council (DKPP) intervened in response to challenges filed by candidates and parties that were disqualified in the registrations process after a dispute over voter registration. The candidates alleged a violation of the electoral code of conduct on the part of the KPUD *Jayawijaya*. During the pre-election period there were also rounds of protests mobilized by candidates as well as intimidation of and threats to the election commission. The vote was conducted under tight security because of the potential risk of protests and attacks by the groups who had been disqualified and were now demanding a boycott of the polls.

The field observation highlighted six major issues surrounding the election in *Jayawijaya*: 1) Candidacy disputes, 2) Electoral administration irregularities, 3) Lack of voter list credibility, 4) *Noken* system voting, 5) Fraud and other acts inimical to the election, and 6) Threats to the security of the election process. A further discussion of these concerns follows:

### 3.3.1 Candidacy Disputes

The first issue that emerged immediately as the *Jayawijaya* elections began was a candidacy dispute. This created delays in the election process, although eventually, the elections were pushed through with two pairs of candidates, the incumbents, Jhon Wetipo and John Richard Banua who were supported by all the political parties, and the opposing independent candidates John Waay and Dicky Kapisa. The two sets of candidates were certified by the KPUD in the verification process No. 77/BA/Verifikasi/2013. However, this came only after long disputes with many other potential candidates who had been disqualified due to weak administration and support from the political parties that did meet the threshold required by law. The candidates were required to be nominated by political parties holding at least 15% of DPRD seats, or receiving 15% of the votes from the total of valid votes in the previous parliamentary election (Article 24(5) of Law No. 32/2004).

Independent candidates were required to obtain 3 to 6.5 % support of the population, the percentage depending on the size of the population. (See above for the specifics of these percentages.) The support for each candidate needs to be verified with a written statement accompanied by a copy of the supporter's ID card as mandated by Article 56 of Law No. 12/2008.

There were seven pairs of candidates, including the incumbents, registered on political party tickets and a pair of independent candidates. However, a dispute arose immediately after the verification process when the KPUD found that there were political parties that provided support to more than one of the seven pairs that were running on party or party coalition tickets. This is prohibited. The parties involved were *Hanura* (*Hati Nurani Rakyat*), PRN (*Partai Republik Nasional*), *Barnas* (*Barisan Nasional*), *Republikan*, and PBR (*Partai Bintang Reformasi*). Although quite unusual, the reason for this kind of maneuver can be understood in the light of money, ideology, or family connections, any of which can motivate party functionaries to split their decision and support more than one candidate. In the end, after withdrawal and disqualification which involved court intervention, the KPU's declared pair of candidates mentioned above was the only one eligible through the verification process. The incumbents were able to consolidate the support of all 38 parties in Jayawijaya against the pair of independent candidates who had the support of no political party. It

created an extremely unequal contest. The victory of the incumbents was easily predicted in an election that was not all competitive and in which the verification seems to have been manipulated in favor of the incumbents.

### **3.3.2 Election Administration Irregularities**

The KPUD, as the main administrative agency of the election, is in charge of planning, scheduling and implementation of the overall electoral cycle. It issues its regulations in accordance with the law and as required by situations in the field. The KPUD recruits and trains the election officials at the level of the PPD, PPS and KPPS, updates voter lists, provides all electoral logistics and manages the election budget. The KPUD Papua is led by five commissioners, as is the KPUD *Kab/Kota*. They are selected through a competitive selection process.

To supervise the work of KPUD and to monitor the overall implementation of the election, the Provincial Electoral supervisory Body (*Panwaslu Provinsi*) is set up at least two months before the election process begins. The *Bawaslu Provinsi* has ad-hoc subordinate teams in each regency, city, and district to the level of the villages. The *Panwaslu*, in the districts and villages, are ad hoc supervisory groups installed a month before and extending until two months after the election. The mandate of the *Panwaslu* is to supervise elections in the provinces, that is, to oversee all the various electoral processes from their start until the inauguration of the winning candidates. In addition, the *Panwaslu* has the obligation to receive any reported allegation of electoral irregularities, sending their finding to the KPUD, *Bawaslu* and other authorities, and to give recommendations to the pertinent institutions based on its findings. Recently, the Indonesian legislature, in preparing for the national legislative and presidential elections due in 2014, created a new election management body (Law No. 15/2012). It modified the previous law by giving more power to the *Bawaslu* at the national and provincial levels, and stipulated five-year terms at both levels, thus creating a steadier and less ad hoc organization than had thus far been the case.

### **3.3.3 Lack of Voter List Credibility**

Public participation and inclusiveness are critical issues in establishing democratic elections. To that end, all eligible citizens are to be given an equal

opportunity to exercise their political rights. As is stated in the International Convention for Civil and Political Rights, ICCPR (1969), Article 25, “Every citizen shall have the right to participate in the election...”. Under Indonesian law, a person is to be registered in order to be an eligible voter and able to cast a ballot. Law No. 32 (2004) requires that a person be no younger than 17 years of age on polling day and/or is already married (Article 68). Voters must be registered in advance and have their names listed in the voter registration (article 69).

Indonesia uses passive and active methods of voter registration. The main source of data is the database managed by the government office under the Department of the Civil Registrar. Here data is gathered from the population records which include a perpetual record updating, e.g., marriages, deaths and births. In this first step, the voter registration is passive in the sense that everything is carried out by the KPUD. However, the KPUD also expects the people to be actively involved by checking their name and data on the list and applying for the inclusion of further data.

In the recent gubernatorial elections held in 2011, the KPUD Papua published a voter list that received immediate criticism. Allegedly, it contained such anomalies as duplicate listings, not-existent persons, underage persons, deceased persons, and unregistered voters. The professionalism of the KPUD in updating voters' lists was seriously compromised. The incongruity of the list was most obvious in the DPT (*Daftar Pemilih Tetap*) or final voter list of 2.7 million registered voters. This was far beyond the total projected by the Provincial Statistical Bureau Papua (2011) which had estimated 1.9 million (1,901,105) eligible voters. This figure was extracted from the 2010 census data which counted a total population of 2.8 million people. This corresponds to what happened in Jayawijaya. The election commission there finalized a list with 185,548 eligible voters during the election of the Regent (*bupati*). But that number is only a little different from the total population of 199,557 posted by the BPS Papua which is obviously impossible. These occurrences raise questions about how they could have happened. There is no easy means of accounting for them, but this research found that the administration of the voter list depends on the quality of population data which in Papua is still poorly managed. Jayawijaya, of course, is affected by this situation.

The chief election commissioner in Papua Province, Benny Sweny, argues that such discrepancy between KPUD and BPS data figures could possibly happen because the two organizations use two different methods of data collection. The BPS Papua used a door to door survey method, employing interviews for data collection. The KPUD, on the other hand, used data that was provided by the provincial registrar's offices. That, in turn, relied on the government's records collected from villages, districts and up to the regency level. The KPUD used ID registration records as the basis of its data. The data given to KPUD Papua was collected and verified by subordinates at the *Kabupaten* level, so the KPUD's only role was in the publication of the data. Although it was aware the voter list data was inaccurate, the KPUD seemed hesitant to clean up the list, probably due to fears of delay, since the elections at that point had already been postponed for some time. Thus the KPUD concluded that it was more important to hold the election so that Papuans could finally have a new governor rather than worry about a poor quality voter list even though it might diminish the likelihood of free and fair elections (ANFREL, 2013, p.22).

Despite the need to have a clean DPT that was accepted by stakeholders, there was almost no time to remedy the situation. The national political impetus was to push Papua's local elections forward with no more delays in order to prepare the way for the upcoming national general elections scheduled for 2014. In the end, everybody had to knowingly accept whatever the elections would be. But looking more broadly at Indonesian electoral history, as described by ANFREL (2013, p.22), elections in Indonesia have often faced serious challenges from the lack of credible voter lists. It is an issue that has repeatedly plagued many local and national elections.

In the case of the local elections in *Jayawijaya*, the KPUD was also unable to update the voter list during the elections phase when complaints arose from candidates and the populace that the data was inaccurate. However, to keep the election on schedule the KPUD decided to use the voter list from the gubernatorial elections that had been held months earlier. The KPUD prepared for elections with a list of 185,548 voters, of which more than half, or 93,367, were female. The quality of the list was still in doubt but difficult to verify due to the lack of time, the questionable professionalism of the electoral officials and the geographical challenges. In an interview, the chief of KPUD Jayawijaya, Pdt. Aleksander Mauri, confirmed the same

issues as described in the ANFREL study mission report of 2013. He added that population and voter numbers have been politicized for the economic and political benefit of the local authorities.

### 3.3.4 Faulty Polling and Counting Processes

The polling was generally conducted using the *Noken* system. The KPUD Jayawijaya imposed on all polling stations the use of only one *Noken* bag. This was a change from earlier practices when multiple *Noken* bags were hung and numbered to correspond to the candidates, and voters deposited their ballots in the bag corresponding to the candidate of their choice. Obviously, this violated the basic electoral principle of secrecy. Previously, voting by consensus had been the custom and was an indicator of the tribal chief's power in that he decided who the tribal members should vote for. Typically, he called on the tribal community to acclaim one candidate, with each registered voter in the village or district then voting accordingly.

The chief of KPUD Jayawijaya took a daring step to ensure the sanctity of the individual vote, promoting the democratic practice of one man/one vote within the *Noken* system. Yet, many tribes still continue the consensus practice, a practice that does not allow community members to challenge their leader. They prefer to maintain peace, rather than create trouble within the community, as rejections of the chief's leadership destabilize community ties and often create conflict. As a result, only polling stations in and near the capital used the combination of *noken* bag with secret voting, while the outlying regions continued with the traditional practice.

During field observation, this researcher witnessed different voting methods being used in various districts of *Jayawijaya*. Generally speaking, the districts in the city and nearby complied with the single *Noken* policy, as had been determined by the KPUD. But other polling stations located far from the city failed to comply with it. The KPPS intentionally ignored the order to use only one *noken* bag, and in many polling stations the staff seemed to have little control over voting by consensus. In interviews, the PPD, PPS, and KPPS in District *Kurulu*, they all made similar comments – they did not see this issue as important since they knew the election was not at all competitive, the winner being pre-determined. Indeed, none of the parties objected to this breach in democratic practice. The election commission

imposed corrections and sanctions only half-heartedly, as their highest priority was to have a smooth election through to the closing of the poll.

The opening of the polls began slowly and the polling stations started at different times anywhere from one to three hours after the time determined by the KPUD. The voters came gradually after they heard a loud-speaker announcement from the PPK, PPS or government official for that day's voting. The chief of the KPUD even went on local radio twice – on the previous evening and on the morning of the polling day. However, people who live in the far-flung villages were inaccessible by radio or by road and thus remained uninformed. Their votes were probably cast by proxy or represented by the chieftain through the community proxy-vote method. At the polls no enthusiasm can be seen on the peoples' faces, perhaps because they are ill-informed about the process. They are also used to relying on someone else, e.g., the chieftain or political party representative, who is 'kind enough' to cast the vote on their behalf or even on behalf of thousands of registered voters. This is the case particularly in those villages still maintaining the consensus practice.

The irony is in the response of the people to this ongoing practice: many acknowledged that they did not object to it, as it had been done that way for years. Most of the tribe members don't want to challenge the ethnic leaders and their allies in deciding what is best for them, just as long as it actually does bring benefit to the community and to them individually. Another factor is the hours it takes for the arduous walk through the hills and jungle with all its risks to reach the polling station. They feel that it is fine for the chieftain to represent them. At the same time, they are concerned about potential divisions or even conflict within the tribe that would result from political differences, if a group were to disrespect the chieftain's decision.

The polling was conducted smoothly in stations across Jayawijaya. The closing and counting were carried out differently in different polling stations even though the accepted method is clearly spelled out in the polling manual. The observer saw that at many polling stations the used and unused ballots were not even reconciled with the number of voters, or with the number of paper ballots distributed at the opening of the poll. The counting was also conducted in a similar 'free style' fashion. In many polling stations the counting was completed before the regulation time of 3:00 p.m. In the upper mountain districts some stations finished very early while other

finished very late. The results were brought directly to the district office and the same night were forwarded on to the KPUD office in the capital, Wamena, except for districts located in the upper mountains where delivery continued into the next day.

### **3.3.5 Fraud and other Acts Inimical to the Elections**

The field observation found that electoral fraud occurred mainly in three forms: 1) The use of money to influence the polls; 2) Intimidation; and 3) The absence of both secret balloting and a one man/one vote procedure. None of these are new to Papuans: they have been reported repeatedly by the media, polling watchers, the KPUD, and the elections supervisory body. However, in this election there was not even a significant effort to correct the situation. The KPUD and *Panwaslu* argue that the attitude of the people can only be changed through comprehensive and continuing political and civic education. Also necessary, in their view, is an enhanced monitoring of how the election apparatus functions, which never remains neutral over against political events in the region.

The use of money to influence elections is common everywhere. Money may be used to bribe or influence the people's votes through direct cash distributions, or through food distributions and infrastructure support. It may also take the form of donations to religious gatherings or scholarship programs. Bado and Dahlan (2010, p.19) call all of these corruption in elections. And in Papua all of them are possible, but the most visible is cash given to the villages or tribal chiefs and Big Men, with the intent to influence the consensus (*ikat suara*) arrived at during their customary practice. Money was also used in Jayawijaya to garner the support of existing political parties. This perhaps accounts for the incumbents obtaining support from 38 political parties. It is not clear where the funds originated, but local observers in Wamena, who declined to be named, said it could have been from a government development fund reserve used by the incumbent for his political campaign. Another possibility is that the money came from business groups who stand to benefit from the exploration of the regions natural resources.

In Jayawijaya the influence of money was also apparent in the *barapen* (*bakar batu*) ceremony that typically took place during the voting. As noted in Chapter II, the wild boar or pig is the essential menu item for these occasions. But a wild boar

can cost as much as three thousand US dollars and at a *barapen* ceremony each district might consume ten wild boars. Needless to say, only a very wealthy candidate or other with money use the funding of the *barapen* to obligate the voters to follow their wishes which it become a means of corruption.

Even though the competition was already extremely imbalanced, there were also incidents of intimidation and threats from anonymous persons targeted at election officials and their families via phone calls, SMS, or letter. As a precaution, the KPUD Jayawijaya was escorted by police officers who were assigned to protect them. They also provided protection to the election commissioners during the election period. In addition, a water canon vehicle was parked at all times in front of the office in case it was needed. In the weeks prior to the polls, there were almost daily protests around the election commission offices.

That said, from the outset of the observation he conducted in Jayawijaya, the researcher witnessed ineffective law enforcement and electoral justice. The *Panwaslu* and its subordinates were faced with serious challenges to their official functions. The *Panwaslu* has limited resources in its operational budget to conduct thorough monitoring, investigations and timely reporting. It also has limited skills and knowledge to respond appropriately to findings and reports. Beyond that, the *Panwaslu* is also accused of political bias because of close affiliation with the incumbent.

### **3.3.6 Threats to the Security of the Election System**

The observation witnessed a tense pre-election environment with the presence of four groups of protesters during the 24-hours prior to the opening of the polls. However, during the actual election no conflict was reported. The security agencies were committed to making sure the polling was completed peacefully, taking special measures to prevent conflict. The provincial police commander, Inspector General (Irjen) Tito Karnavian, visited the city to inspect his officers and to remind them to act professionally. Security agency partisanship was identified early on as a factor potentially contributing to conflict. Inspector General Karnavian, in his briefing, gave orders to take necessary measures to ensure that law enforcement maintained

peace and order. As Wamena is at the heart of the central mountains, whatever happened in Wamena would likely affect the surrounding areas.

Kapolda Inspector General Tito Karnavian set up a situation room in the capital, Wamena, to directly monitor the implementation of the elections. As part of conflict prevention he briefed security forces not only to act professionally, but also to use a persuasive approach in handling the mass protests in order to prevent clashes during the election period. He ordered the *Kapolres* (Regency Police Chief), AKBP<sup>6</sup> Johnny Edison Isir, to persuade the protesters who were gathered at several places in the city to refrain from violence. On their side, the *Kapolres* did work to persuade the groups opposing the elections to respect law and order and the court decision pertaining to the election. The chief of the KPUD also persuaded the chieftains to clarify elections issues (**for the people in their tribe?**). In addition, the KPU chief intensified public communication via radio and newspapers to disseminate an explanation of the election's purpose and to urge voter participation in the election, respecting the election process as they did so.

The police deployed approximately 597 personnel at 546 polling stations. Thirty-five were assigned as personal escorts for election officials. One stationary officer was placed at each polling station. And eleven tactical teams were set up as standby response units in strategic locations. The army also deployed personnel for patrol and to serve as reserve units to support the work of the police for intervention whenever and wherever they might be needed.

In discussions with stakeholders in Jaywijaya, such as the chief of police, priests, community leaders, political party representatives, and people in general, they all described similar situations and provided similar analysis of the ongoing situation.

a. The candidates who had been dismissed during the verification process had been misleading their followers regarding election-related facts. Some had used legal processes in the courts to discredit the KPU. Then, with all legal processes exhausted, they provoked their mostly uneducated followers to protest and to threaten the election personnel and the electoral process in order to postpone the polling.

b. The neutrality of election officials and security personnel was compromised because of family relations and tribal solidarity.

c. A central aspect of the Noken balloting system is consensus. In this system, it is common for a candidate's canvasser to work out a bid deal with tribal chiefs to win the votes of the entire community. In this situation, instead of the democratic one man/one vote, the tribal chief symbolically marks a ballot paper on behalf of all his tribe for the party or candidate he has agreed to favor. Further, he declares that the rest of the ballots should be marked for his favored candidate up to the number of register voters on the list. This often triggers fights within the tribe. When someone challenges the chief in order to vote by him/herself, he will not tolerate this disobedience. It is seen as a challenge to his power and in many parts of Papua it leads to violence.

### **3.4 The Dynamics of Papuan Political Parties**

The field observation found an obviously imbalanced contest in the Jayawijaya elections, with the incumbent eventually obtaining support from all the political parties in the regency. The situation can hardly be described as fair when originally there were seven pairs of candidates from various political parties during the early phases of the registration process. Those same parties later turned to support the incumbent instead. Such a situation, of course, raises public suspicion of a political deal that involved monetary compensation or other rewards. It is very odd, to say the least, to see all 38 parties in Jayawijaya supporting the incumbent, leaving only a pair of independent candidates to run against him.

In an effort to achieve maximum personal benefit from electoral politics, political swings like these have become a common phenomenon. A similar situation occurred during the Jakarta gubernatorial elections in 2007. Mr. Fauzi Wibowo, who was the incumbent (he held the office of vice-governor during the election), was running for the office of governor and was supported by almost all political parties in Jakarta opposing a candidate who was supported by only the Justice and Prosperity Party (PKS). It was a David and Goliath fight, but unlike in the original, this time the giant won, a stark reminder of how important political resources and power are for

electoral politics. With better access to bureaucratic machinery, incumbents are able to control and manipulate the system for their own interests.

### 3.5 Electoral Outcomes

As expected, the incumbent Jhon Wempi Wetipo, SH, MH and Jhon Richard Banua, SE obtained a landslide victory, securing 168,661 votes (91.69%) compared with their rival Jhon Way S. Hut and Decky Kapisa having only 15,290 votes (8.31%). The voter turnout was 98.84%. In other provinces this would be considered high, but in Papua it is considered normal. Often the turn-out can even reach 100%, as it was for the gubernatorial election at Kab Puncak Jaya, Puncak, Paniai, Dogiyai, Intan Jaya, Deiyai, Central Mamberano, Lany Jaya, Nduga, Yalim and Yahukimo. In an isolated case, and ridiculously so, it can reach more than 100%, which happened in Kab. Mimika for the 2013 gubernatorial election, ANFREL (2013, pp. 19-20). From these figures, we can see a majority favor the incumbent, which might happen because the political machinery is controlled by the incumbent who is seen as a Big Man. The help of electoral officials may also play a part.

As could be predicted, a dispute arose immediately after the results were announced. The candidates who had been disqualified appealed to the Honorary Council of Electoral Management Bodies, or DKPP, with allegations of misconduct on the part of the election commission in *Jayawijaya* during the candidacy verification process. Among the petitioners were Saul Essarue Elokpere, Paskalis Kossay, Kornelis K. Saran and their associates. Other petitioners submitted cases to the Constitutional Court for nullification of the election results and the opportunity for new elections. The DKPP reviewed the case and found convincing evidence of ethical misconduct during the candidacy verification process by the KPUD Jayawijaya. Eventually, on 10 October 2013 the DKPP dismissed all the commissioners – Pdt. Aleksander Mauri, Esmon Walilo, Yenius Yare and Joy Markus Bukorsyom. In the other case, the Constitutional Court, in its decisions Nos. 48/PHPU.D-X/2013, 49/PHPU.D-X/2013, and 50/PHPU.D-X/2013 rejected all the cases submitted by the petitioners. There would not be a new election.

Even though they have different legal jurisdictions, the DKPP's decision to dismiss four KPUD *Jayawijaya* commissioners and the Constitutional Court's rejection of the petitions to nullify the election are generally viewed as inconsistent with each other. The DKPP decision affirms that there was an ethical violation by the KPUD *Jayawijaya*, but the Court did not see this as a legal point that would support the arguments brought by the petitioners for a new election. This rapidly developed into debates in society at large and almost led to bloodshed. As described earlier, *Wamena*, as the capital of *Jayawijaya* regency, has a very important geo-politic position in the heart of Papua. If this regency flares up, the unrest could easily spread to neighboring regencies. Rumors about the incumbents' is having close connection to the OPM (*Organisasi Papua Merdeka* or Free Papua Movement) was also considered to be a factor in the unstable *Jayawijaya* situation. Eventually, the home minister decided to advance the political process and the incumbents were inaugurated on 18 December 2013 by the Governor of Papua, Lukas Enembe, on behalf of the President of the Republic of Indonesia. This action is considered to have been a politically expedient decision rather than one of pure electoral justice. The decision was made in order to keep the region stable and to save resources from consequences for a new election.

## **CHAPTER IV**

### **REALITY AND CHALLENGES IN PAPUA ELECTIONS**

This chapter focuses on the key challenges that occurred during the local elections in Papua. First and foremost are the legal obstacles that occurred as a consequence of the asymmetric election arrangement. Second is the challenge of asymmetric elections at the implementation level, particularly electoral administration and the measurement of electoral fraud. The interconnection of these two issues created the current election situation in Papua. The research also found that the Big Men who play a strategic role in tribal decision-making rendered the troubled *noken* system nearly irresolvable. The Big Men emerged as actors who exploit the legal arrangement and the asymmetric elections for their own political interests. What follows are some of the findings of the research into these issues.

#### **4.1 Legal Obstacles to Asymmetric Elections In Papua**

In addition to the Constitutional Court's ruling on the *noken* voting system, there is another legal standard that contributes significantly to the asymmetric elections in Papua, namely Law No. 21 (2001), the Special Autonomous Law. This law contains articles that in essence contradict the already existing election norms and principles held by Indonesia and by international bodies. And yet, the Court reviewed and legalized the asymmetric method for voting in this region. Thus the debate continues as to what extent this provision can be maintained as does the question regarding its constitutionality, that is, whether it can be harmonized with the constitutional standards for democratic elections.

There are three contentious legal issues regarding asymmetric elections in Papua. First is the question of candidate status, i.e., native or non-native Papuan, as it pertains to the heads of local government positions - governor/vice-governor, mayor/vice-mayor, and *bupati* - vice *bupati*. Second is the role of the DPRP on

candidate selection vis-à-vis the role of the MRP in endorsing candidates. The third issue is the *noken* voting system itself as it relates to the issues of constitutionality and other electoral principles. The so-called asymmetric election system has been implemented, but with dissatisfaction and disputes. So far, the Constitutional Court has been able to sort out disputes through legal proceedings, and the security agencies have been successful in safe-guarding the elections and defusing conflict that arose out of the electoral process in the most part of the Papuan, and for those with delay is eventually continue with full security treatment. Nevertheless, it is obvious that, in the long term, legal clarification and clear policy regarding the *noken* system are required for better future local elections.

The first main legal obstacle arises from the Special Autonomous Law of Papua (SALP, 2001) which makes the requirement that a political candidate must be a native Papuan in accordance with Article 12(a). As noted before, the definition of a 'native' in Papuan context is a Melanesian with the physical characteristics of 'black skin' and 'curly hair' who was born in Papua or has Papuan parents. This affirmation of Papuans is automatically a discrimination against the non-Papuans that it prevents from participating in the elections. As such, the law is opposed to an open and competitive candidacy as is prescribed by article 58 of Law No. 32/2004 on the requirements of candidates for local elections, as well as to the spirit of Article 25 of the UDHR (1948) and Article 21 of the ICCPR (1966), both of which emphasize the right of every individual to participate in governance and elections.

The second legal issue arises from conflicting assignments of authority to the KPUD and the DPRP for the administration of candidate registration. The authority of the KPUD to administer elections was first mandated by the Constitution of 1945 in Article 22 E(5), and is detailed by Articles 65 and 66 of Law No. 32/2004 which clearly state that the Provincial Elections Commission (KPUD) is to manage the entire electoral process including oversight of candidate selection. On the other side, the DPRP (Papuan House of Representatives) and MRP (Papuan People's Council) claims that the SALP gives it the authority to verify and endorse the candidates. According to Article 7 of the SALP, the DPRP is authorized to select the governor and vice-governor and then propose them to the president of the Republic of Indonesia for appointment. The authority of the DPRP to oversee candidate registration is in conflict

with the authority of the KPUD. According to Article 20(1) of the SALP, the MRP holds authority to approve and endorse the candidates for governor and vice-governor that have been proposed by the DPRP.

The MRP has the rights to verify and certify that ascertains the candidates' status as native or non-native Papuans. The SALP identifies a native Papuan as either a person originating from the Melanesian race or a person accepted as a Papuan native by local *adat* communities. The certification also called for by special local regulation pertaining to the election of mayor/vice-mayor and *bupati*/vice-*bupati*. The birth status question became a source of dispute for candidates who were born to mixed Papuan and non-Papuan parents, or were of non-Papuan origin but had been granted special Papuans honorary status by a tribe because of their adherence and service to that society.

In the gubernatorial elections that were held months before the Jayawijaya local elections, Komarudin Watubun Tanawani, a non-native candidate, filed a case with the Constitutional Court against the MRP decision that disqualified him from candidacy. Although Komarudin is not a blood native from Papuan parents, he had obtained recognition as a native by the Yawa-onat tribe on Yapen Island because of his devotion and service. He had been given the tribal name of Tanawani Mora, so his name became Komarrudin Watubun Tanawari. The Court granted his case and ordered the MRP to annul its decision and allow Komarudin to pursue his candidacy in the future.

In its opinion the Court determined that the term "indigenous Papuans" contains two classifications, namely, the indigenous tribes that are part of the Melanesian race living in various Papuan communities and people who, although physically and anthropologically excluded from the native tribes, are accepted and recognized by members of an indigenous community by customary law. Independent authority is attached to the customary legal norms that are adopted, obeyed and carried out by each community. This is outside the authority of the MRP. Thus it is the task of the MRP, according to Article 20 paragraph (1) of the SALP, to give consideration and approval to the Papuan candidates by this broader definition. And it is deemed unconstitutional not to conform to local customary law. The Court also ordered this decision to be recorded in the Official Gazette of the Republic of Indonesia.<sup>7</sup>

A third set of legal obstacles are related to the voting mechanism that is used in the elections, namely, the *noken* system. The practices in that system contradict Article 18(4) of the 1945 Constitution which prescribed democratic elections, as well as Article 22E(1) which prescribed direct, general, free, and secret voting in Indonesian elections. However, by allowing the *noken* system to be used, the Court's decision provided for a mechanism that is antithetical to truly democratic processes. Even perhaps because it is contrary to democratic election principles, the *noken* system is welcomed by the Papuan elite, especially by those who benefit from the system's representative or proxy voting. Electoral practitioners in Papua are well aware of the arguments on both sides of this issue.

From the perspective of this observation, it is the uncertainty in the definition of the *noken* system that creates the differences in implementation. It could mean that the *noken* bag is simply a tool to store the ballots, or it could be a replacement for ballot boxes; but the system is also interpreted to include *ikat suara* (prior consensus voting), communal proxy voting and the customary *bakar batu* ritual feast to seal the consensus agreement. With its definition unsettled and debate still surrounding its use, the *noken* system has been used in 16 out of 29 local regency elections, and in the gubernatorial elections during the period from 2009 to 2014, and will likely continue to be used into the foreseeable future.

Several prominent legal and electoral experts interviewed during this research have expressed a number of concerns regarding the *noken* system. For instance, Refly Harun, an electoral law expert, working at CETRO (Center for Electoral Reform) Indonesia, criticized the implementation of the system. He believes the Elections Commission could have taken a different position in response to the Constitutional Court's decision on the Yahukimo case. In his opinion, the KPU should have been able to stipulate that the case did not establish a legal precedent for other regions. In other words, the decision would not oblige the KPU to maintain uniformity across Papua in the use of the *noken* system. Harun stressed the importance of an acceptable standard in support of democratic elections. Likewise, he also criticized Sodiki and the Court's decision for issuing an inadequate decision that left the door open for widespread, multiple decisions.

Additionally, Harun called upon electoral stakeholders to set up an action plan to accelerate democratic development in the region. He said, “the stakeholders should set a time frame indicating how long the affirmative policy/asymmetric can be extended to the Papuans. The government should make a serious effort to design a comprehensive plan of action to enhance awareness of political processes and democracy in Papua, with the key objective of implementing one man/one vote as practiced in other Indonesian provinces.” Harun also suggests the suspensions of elections in Papua if voters are not ready for direct elections since the *noken* system does not provide justice for all possible candidates and obviously leaves room for manipulative practices.

Prof. Ramlan Surbakti, an electoral expert and former Deputy of the General Elections Commission in Indonesia (2007 – 2012), expresses similar thoughts regarding the *noken* system. He insists that the use of the *noken* form of communal proxy voting must be immediately clarified. He said, “The *noken* system with its representative voting can be seen as a manipulative practice rather than a cultural accommodation. It does not provide justice and equality to all candidates involved in the election.” He maintains that the state should clarify the recent situation and take measures to develop proper knowledge regarding the elections. It needs to make its presence felt in the region. “The state has largely ignored democratic education and development in the region. Such absence of the state contributes to the manipulation of elections in the region.” He disagrees, however, with Harun’s thought to suspend elections in Papua. It is important, he feels, that elections be held periodically there to keep Papuans aware of ongoing election events as well as to avoid raising unnecessary negative sentiments against central government. It is common knowledge that activist groups are still campaigning for Papuan independence. Suspension of local elections in Papua may damage Papuan trust in Jakarta, putting Jakarta at a disadvantage in its relationship with Papua.

The *noken* system was similarly rejected by a former chief of the *Bawaslu* (Electoral Supervisory Body), Bambang Eka Cahya Widodo, who oversaw the national elections – including Papua – during the period from 2007 to 2012. He witnessed the dynamics of the Papuan elections first hand, and encountered the complications surrounding the *noken* system. He doubts whether the system really has

a relation with the cultural heritage of the Papuans. He argues that the representative voting was inherited as part of the New Order's *Golkar* legacy, a manipulative practice arranged by a particular stakeholder component and a potentially cancerous problem if not quickly corrected. Widodo believes the so-called 'cultural practice' associated with the *noken* system was manufactured outside of true local culture, with the argument for 'tradition' being a manipulative excuse to keep the system going. This was supported by Mochtar Pabottingi, a senior political analyst and senior researcher at the Indonesian Institute of Science, who emphasized that the singularity of the law must be maintained in order to avoid multiple interpretations and ensuing jealousy in the other regions, a point Harun had also raised.

Widodo's point was also supported by the head of the Papuan police, Inspector General Tito Karnavian, who is also an academic. He has been intensively tracking historical evidence supporting the 'traditional' cultural practices associated with the *noken* voting system, but has uncovered nothing. He equally doubts that there is any cultural support for the political mandates that are given to the chieftain. Both Widodo and Karnavian hold the opinion that continuing the representational voting carried on in the *noken* system will simply impede the ability of Papuans to adapt to liberal democracy. They also question the motivation of the electoral stakeholders i.e., elections management bodies, government, political parties, and civil societies in promoting this situation. The political interests of the central government could provide the answer to that question. This line of thought is also supported by Wahidah Suaeb, a former member of the *Bawaslu* (2007-2012), who said that the *noken* and the SALP are ostensibly a political compromise given to the Papuans by the central government, but in reality, are designed to maintain its own interests of the Papuan elite and ruling party. This way ruling party with the help of a few Big Men are easier to control, through bribes, etc. Suaeb also points out that the stakeholders need to revise or contextualize the *noken* system to fit recent democratic development. She also stressed the importance of setting up a time limit for the use of the *noken* system.

Finally, the General Elections Commissioner (KPU) in charge of Papua, Arif Budiman, expressed his appreciation of the discourse on the issue of the Papuan *noken* system. The KPU, indeed, acknowledged the need for a simpler way of managing the implementation of the system. He stressed the interest of the KPU in

standardizing the system by defining the *noken* bag as a replacement for ballot boxes as was stipulated in the KPUD technical guideline. From the wide variations in the field, however, it is obvious that tribal elders, under the influence of local politicians, purposefully carried out the representational voting method. The KPU admitted they faced difficulties in correcting this practice at the field level since their officers would risk their safety by trying to do so. Budiman expects that the KPU will be firm in clarifying the definition of the *noken* system so that it is in accordance with Indonesian electoral principles, i.e., direct, free and secret voting.

The issue that emerges at this point pertains to discrimination that undermines citizens' rights to participate in the political process and the right to vote. The Special Autonomous Law in Papua (2001) and Constitutional Court interventions have changed the situation and intentionally put aside civil and political rights in Papuan elections. Although experts interpret these conflicting articles differently, the Court has clearly freed Papuans to conduct their elections differently. However, as this debate proceeds, there is a need to arrive at provisional conclusions for resolving governance in the short term and for lawmakers to immediately clarify the scope and timeframe for implementation of this asymmetric arrangement.

## **4.2 Challenges in Electoral Implementation**

Like those in other Papuan regencies, the elections in Jayawijaya were held in difficult circumstances – delays, disruption, conflict and fraud. Besides the legal disputes just discussed, the research focused on five major problems that occurred during the Jayawijaya elections; 1) the candidacy disputes, 2) the credibility issues of the voter list, 3) non-compliance and inconsistency in the implementation of the *noken* system, contrary to the procedure set by the Provincial Elections Commission, 4) fraud and threats during the election process, and 5) electoral administration and geographic challenges.

The first of the challenges to election implementation in Jayawijaya involved candidate registration. This observation witnessed a verification process that was chaotic as the result of duplicate political parties supporting different candidates.

Parties such as *Hanura (Hati Hurani Rakyat)*, *Barnas (Barisan National)*, *Republikan*, and *PBR (Partai Bintang Reformasi)* had all given support to more than one candidate. Consequently, the KPUD had to further delay the election while it made inquiries and eventually disqualified parties. Such actions were allegedly motivated by profit taking and may also have been prompted by family ties that are deeply embedded in Papuan society - family helps family. But finally, after political maneuvering on the part of the incumbent, the issue was resolved, albeit, unsatisfactorily. The KPUD finally moved forward with the election with the only two pair of candidates who passed the verification process. One was the pair of incumbents. The other was a pair of independent candidates. It is unclear exactly what deal the incumbents worked out with the political parties, but ultimately, all the 38 political parties in the Jayawijaya region were united in their support of the incumbents. A local observer believes the incumbents' deal involved cash and other benefits for the parties or individuals involved.

The second challenge to the elections was a low-credibility voter list. As described in Chapter III, the Provincial Elections Commission and its subordinates failed to produce reliable voter lists due to technical and administrative matters. The voter data that had been collected and updated by the civil registrar in the villages and district offices was inaccurate from the start. It is common knowledge in Papua that the voter lists contain anomalies - duplications, under age individuals, deceased persons and unknown or non-existent persons. These inflated voter figures often trigger protests that lead to violence. The professionalism and neutrality of the KPUD in updating the voter lists has been seriously brought into question. The final voter list figures published by the KPUD were far higher than those that had been projected by the Provincial Statistical Bureau (BPS – Papua). It should be said that the situation described here is not limited to Jayawijaya but prevails in many of the Papuan regencies.

In Jayawijaya Regency, the KPUD finalized the list for the last election with a total of 185,548 eligible voters. This is only slightly lower than the total population of Jayawijaya reported by the BPS-Papua at 199,557. In an interview with the KPUD Chief, Pdt. Aleksander Mauri (2014), he acknowledged the possibility that mark-up on voter list figures could have happened for various reasons. The population

numbers and the voter lists have been politicized for the political gain of local authorities. Although the quality of the voter lists remained in doubt, the verification of those lists also remained problematic due to the lack of time for careful cross-checking, doubtful professionalism on the part of election officials, and the considerable challenges presented by the geography in the region.

The third challenge for the elections was the implementation of the *noken* system in a manner that was contrary to the technical guidance issued by the Provincial Elections Commission. The guidelines defined the function of the *noken* bag and outlined detailed procedures for balloting to enhance uniformity and made it clear that the *noken* bag was to be seen as a ballot box substitute. The guidance from the KPUD also promoted the secret ballot and one man/one vote. But this directive could not withstand the instructions of the chieftains and the Big Men. Elections proceeded the way the Big Men directed, the officials and polling officers having little say about it. In general, the implementation of the *noken* system was carried out inconsistently, e.g., the number of *noken* bags used, the lack of secrecy in balloting, and the chieftains' use of the proxy-vote.

In Jayawijaya the KPUD workers tried their best to protect the secrecy of each voter and instructed the polling staff to install a single *noken* bag at each polling station, repeatedly ordering the staff to follow that procedure. It should be noted that in the usual *noken* voting system, the local election manager will provide more than one bag in accordance with the number of candidates contesting. The voting tally was based on how many ballots were deposited into each bag. However, KPUD instructions were completely ineffective at polling stations located outside the city where no orders and regulations were observed. Every stage – opening, voting, and closing – was done under the influence of the Big Men.

The fourth challenge to the democratic electoral process was fraud and threats. This research identifies three common kinds of fraud:

**(i) Money used to influence voters and officials.** The use of money in cash and in kind is common in Papua. Incumbents with the resources of the office and independently wealthy candidates indulge in such practices to woo voters, to build allies in the tribe, and even to influence election officials.

**(ii) Intimidation of candidates and election officials.** The assertive character of the Papuan people, combined with a lack of education, has led to intimidation becoming a part of the daily environment during the election period. There are acts of vandalism on public and private facilities, protests and rallies, and tribal feuds. These have become regular channels of expression in Papuan politics.

**(iii) Manipulation of vote numbers during voting and counting.** As a consequence of the *noken* system and its implementation, which is largely arbitrary and inconsistent, there was massive manipulation of the people's votes and the election tallies.

The fifth challenge to the elections was the inefficiency of the election administration as well as the region's rough geography. In its effort to set up effective election management, the Provincial Election Commission faced multiple administrative and technical difficulties. Budgeting was one example. The budget was controlled by the incumbents and thus it was often politicized. Another example was a lack of professionalism among electoral officials, both KPUD and *Panwaslu*. It was difficult to recruit neutral staff because most of the knowledgeable persons had been affiliated with or were employees of the candidates. The geography of Papua is also a challenge, as many districts are only accessible by plane, four-wheel drive vehicle, canoes, or even on foot, posing obvious problems for the distribution of election paraphernalia and for monitoring election implementation. These combined factors also contribute to ineffective justice enforcement. The *Panwaslu* and its subordinates are faced with serious challenges in performing their tasks due to inadequate resources and support.

Papuans live in different cultural groups. Communities are spread out in hundreds of different tribes with different dialects, living in their tribal societies with varied political systems and inhabiting different ecological environments. Djojosoekarto (2008, p.10) has described most of the socio-economic divisions of the Papuan population on the basis of ecological zones. He also described their complex systems of livelihood and the division of labor among them. These are further complicated by other cultural aspects such as social organization and ideological

systems such as religious ritual. Djojosoekarto's study includes the political system within tribal society where the recognition of leadership comes from different sources that vary from individual achievement/earning (one man show) to an inheritance system (Djojosoekarto, et al., 2008, p.10). Djojosoekarto's study helps us understand the type of leadership in each tribal community and how decision making typically occurs in each one.

Socrates, a Lany tribal and religious leader, claims that for centuries a kind of tribal democracy has existed in the communal decision-making process implemented when a tribe was confronted by important decisions, e.g., whether to open a new farm field or to declare war against another tribe (Socrates, 2010, p.128). But even though the tribes use a traditional convocation for important decision-making, in such hierarchical societies dominant individuals would inevitably control the community decision. These individuals are still known as Big Men. ANFREL (2011), Sahlins (1963), Van Trease (2005) all recognize the significance of these dominant personalities in tribal decision-making. Francis Fukuyama (2011), as well, describes the Big Man as a cultural phenomenon in the leadership systems of Melanesia and the neighboring countries of the Solomon Islands and Papua New Guinea (PNG). He also describes the role of the chieftains or elite Papuans who play a dominant role in Papuan politics. Fukuyama points out difficulties in implanting modern political institutions into Melanesian societies. These societies are organized into what anthropologists call segmentary lineages or groups of people who trace their lineage to a common ancestor and difficult to forward with a new culture.

Fukuyama also describes how someone becomes a Big Man within the tribal society. No one is born to or inherits the title. Rather, the position is earned in each generation by those who are physically dominant, or have earned the community's trust, usually on the basis of their ability to distribute wealth, such as pigs, shell money or other resources (Fukuyama, 2011, pp. x-xi). This is similar to the practice of the Yali tribe in Angguruk where also the leadership is not inherited or received in ritual ceremony, but is given to those known for their activity on behalf of the community. This may be the distribution of wealth in the form of farm products, property, or pigs (Silak, 2011, p. 81). Almost identically to Silak's description, Sahlins says that the power of the Big Men is personal, a status that comes neither by

succession nor by being installed by the community. This status comes as a result of a history of performance that elevates the individual and inspires his followers' obedience. This may be magical powers, expertise in gardening, mastery of oratory, or perhaps bravery in war or feuding. Typically decisive is the use of skills and effort in a certain direction, toward amassing goods, most often pigs, shell money and vegetables, and distributing them in ways which build a reputation for cavalier generosity, if not for compassion (Sahlins, 1963, pp 285-303).

This research seeks to articulate three aspects of the *noken* system. First is the *noken* bag itself, with its attached cultural values including its use as a substitute for the ballot box; second is the *noken* voting system, carried out with a communal proxy-vote and the domination of the Big Men; and third is the cultural festival attached to the *noken* in the form of *barapen (bakar batu)* on the polling day. These three components are described on the basis of first-hand impressions of the system gained during field observations.

The *noken* bag itself has a long history of cultural significance and now it is used as a substitute in election as a ballot box substitute. That the bag with its multiple functions has cultural value for Papuans in the central mountains is undeniable and this is the main argument in its continuing use for political and democratic events. UNESCO has defined the *noken* as discussed at Chapter I, and this UN body on 14 December 2013 has listed the *noken* bag as an intangible World Heritage. It is not known for certain just when the bag was first used as a substitute for a ballot box, but Yance (2010, p.3) indicates that it was in the elections of 1971, when there was a logistical delay in the distribution of polling materials to the polling sites. It was then deemed acceptable, in the absence of the ballot boxes, to use the *noken* bags instead. This practice has since been confirmed by the Papuan Election Commission's Decision No. 1/Kpts/KPU.Prov.030 regarding "Technical Guidelines and Procedures of the *noken* Voting System" (2013).

A second aspect of the *noken* system is that the practice of using it for elections has been legitimated by the Constitutional Court which legalized the nomination of a single proxy on behalf of the indigenous society. The Court argued that Papuan tribal communities engage in a society of mechanical solidarity which emphasizes unity and uniformity, leaving no room for individuals to compete with the

very central position of their leader. There is no division of labor (labor differentiation), so that a leader may also serve as a warlord, a shaman or a judge who resolves disputes. Thus the practice noted by this observer is that of the communal vote carried out through proxies. This means that one person, usually a chieftain, and votes on behalf of everyone in the clan. Thus representative democracy as it is usually understood is still alien to the tribal communities (Sodiki, 2009, pp.2-3).

The third aspect of the *noken* system that was observed was the *barapen* (*bakar batu*) ceremony that takes place during the voting. *Bakar batu* is a traditional ritual used for various purposes including the expression of thankfulness for abundant blessings, weddings, welcoming receptions, funeral ceremonies, as well as peace celebrations after war. Essentially, the parties are celebrations with dancing, cooking and communal dining (The Wisata Papua, 2011). The presence of a wild boar or pig is essential as the main menu item of the *barapen*. The wild boar is considered a sacred animal and has deep mythological, spiritual, communal and social status for Papuans (Silak, 2011, p. 61). However, a wild boar can cost as much as three thousand US dollars each, and for a *barapen* ceremony each district might consume as many as ten wild boars, with the result that only a very wealthy person could afford to provide them.

In the second and third aspects we can clearly see the significant role played by the Big Men, on the one hand, as the primary decision-maker in the communal proxy voting system, and on the other hand, as the sponsor of the *barapen* ceremony. The Big Men have a network they use to organize the tribe, often involving money and muscle. They are able to recruit their supporters to be election workers, and with that infiltration into the election process, they gain control of the polling and ensure victory for the candidate of their choice. The Big Men are also the usual sponsors of the *barapen* and may often be incumbent candidates or opposition candidates. The voters, who had already been informed by word of mouth, normally via the elders of the various villages within the tribe, attend the ceremony, dance performance and feast of wild boar, vegetables and sweet potatoes. Meanwhile another group of people is punching the ballots and depositing them into the *noken* bag. The sponsors might have been government officers, military officers or representatives of the ruling party or some combination of them. They worked closely with the

community leaders, such as religions leaders, chieftains and youths, to arrange the cultural events and generally make the people comfortable. As stated by Sumule (2002) and Bhakti (2011), these actors strongly influence the tribe and its religious hierarchy who, in turn, are often compelled to follow those actors' whims in order to avoid conflict. In this way the votes are predetermined in order to favor the ruling party.

The above instances demonstrate the significance of the Big Man as a key actor in the reality of Papuan electoral politics. They enjoy legitimacy to claim cultural and political power in the name of tribal society, which ANFREL identified as the tribal supremacy paradigm, in which the Big Men taught the society to be loyal to the tribe and to their decisions for the tribe, whatever they might be (ANFREL, 2011, pp. 23-24). Given this situation, democratic procedures on any occasion will be difficult to implement as most such decisions will be pre-determined by the Big Man. The ANFREL report further mentions concerns regarding the potential abuse committed by the Big Men with the tribes' elite. Poverty, illiteracy, lack of political awareness, and the difficult geographic situation are some of the factors that allow this abuse. These conditions among the elite make them vulnerable to coercion by means of money or goods or by physical intimidation. The situation is still worse if the Big Men themselves are 'seduced' by outsiders who offer support in the form of bribes or largesse (Van Trease, 2005, pp. 296-332).

This research also gathered empirical evidence from previous electoral events held under the full control of the government during the New Order era (1971-1999), and several election events held before Papua became part of Indonesia. Sumule describes how *Golkar's* party orchestrated every election during the New Order era. The voting occurred only at the district capital level (Districts later became regencies.), and the ballots were punched in the capital, Wamena, by the officials (Sumule, 2002, p.2). Other evidence can be seen in Bhakti (2011) who discusses whether the elections during the New Order were just a formality without any actual voting taking place. Silak (2011, p.58) also describes past parliamentary elections with the votes collected by someone and brought to Wamena without anyone who could verify them in any way. The so-called Popular Consultation (*Pepera*), held by the GoI and the United Nations, was technically under the control of the military in order to

ensure Indonesian victory (Araf, et al., p. 50). Sumule, Bhakti and Silak are all in agreement that it was an electoral environment in which the one man/one vote principle was completely absent. All this supports the research's hypothesis that the communal proxy vote may actually have nothing to do with cultural issues, but rather was shaped by the political behavior of local politicians.

There is a different political atmosphere in Wamena, where Papuans know the exclusivity with which the natives dominate the head of regency, city, and province positions. And they know about the hundreds of natives that have ambitions for these positions, dividing themselves into various tribal affiliations, as well as individuals within a tribe or village, in order to support different candidates. This natural competition runs the risk of turning into conflict as they see each other as the enemy. There are often hostile situations among the candidates' supporters in the same village. This situation brings to mind the *O-wim* (village conflict within a tribe) in the Yali tribe in Angguruk. They fought each other with the intention of earning property as the prize of their service. Even though they may have lived together in the same house, they equipped themselves for battle. Even more amazingly, after the election those who fought each other came together again, sharing their belongings, including their prized pigs, and using them again as communal food. This is the nature of democratization in the tribal communities. They polarize into various groups to support different candidates, often violently, but later return back to their house, living again in harmony with their kin (Silak, 2011, pp. 58-59).

Given this unruly environment, the electoral management bodies, such as the Provincial Elections Commission or *Komisi Pemilihan Umum Daerah* (KPUD, with the duty to administer the elections, and the Electoral Supervisory Committee or *Panitia Pengawas Pemilu* (*Panwaslu*), responsible for election oversight, both faced considerable difficulties in carrying out effective and efficient elections. For the KPUD, these difficulties began with the electoral schedule which was disrupted by the rising complaints regarding the candidacy process. Those dissatisfied candidates who had been disqualified by the KPUD appealed their case to the high court or the administrative court in *Jayawijaya* (see candidate registration in Chapter III). The *Jayawijaya* local election had to be postponed for six months due to a hold order from the court until it reached its verdict on the disputed case files.

The delay affected the election budget. The KPUD had to revise it repeatedly in its efforts to cover the cost of contractors and temporary personnel such as the PPD (district election officials) and PPS (village election officials) who are hired on an ad hoc basis to run the elections. The local government administers the regency election expenses, with 60 percent of the cost coming from the Regency (*Kabupaten*) government, and the other 40 percent from the Provincial government. Complications arose when the KPUD had to deal with politicians in the local parliament or with incumbent *bupati* regarding the election budget, both of whom politicized matters during the revision process. Sometimes the *bupati* incumbent, either independently or together with the local parliament, would use the opportunity to influence the KPUD from the time of recruitment by arranged recruitment and during the operation by budgeting politic. In another scenario, the DPRD would use the opportunity to pressure the *bupati*, if he/she was not from the majority party in DPRD, with numerous maneuvers like budgeting and questioning rights.

Security is another concern, since election workers are vulnerable to assaults or harassment from frustrated parties. Even workers' families sometimes suffer. Some Papuans are easily lured to physical engagement if motivated by loyalty to a candidate, money, or intoxicating beverages. It's often difficult for the KPUD to calm such rowdy parties and, in their effort; themselves often become targets of their anger. This also adds to the KPUD's difficulty in recruiting staff, since potential workers often belong either to the incumbent's or another political party. And those who actually want to be neutral find it difficult to remain so because of the security risk to their families. This lends credibility to allegations that some polling stations came under the control of particular political groups.

The problem of securing capable staff already implies the difficulty there is in maintaining and making available accurate electoral data. Voter registration figures are the most problematical as the staff cannot obtain reliable and accurate data. Village population is difficult to determine because of the poor performance of house-to-house surveyors. The number of eligible voters rose wildly but was inconsistent with Provincial Statistical Bureau figures. And due to the challenges of the geography, it was not realistic to conduct a survey audit. The KPUD acknowledges that the state of voter registration data is chaotic. One of the reasons is local political agendas, that

is, politicians intentionally inflate the data for various purposes such as social revenue benefits, establishing new regency, or other political gains. The data inflation is at its worst in those polling stations where the registration and verification staffs can be bribed or intimidated to favor one politician or another. This researcher has seen that the mark-up of the voter list along with the push for the *noken* system and *ikat suara* (consensus vote) clearly correlates with the effectiveness of candidates who are notorious for manipulating elections in their favor.

The geography in *Jayawijaya* is indeed very challenging. The mobilization of supplies and materials must depend on air transport which is uncertain due to volatile weather patterns. To forward supplies to the inner districts, four-wheel drive vehicles are required because of muddy roads. Some districts in the high water of the *baliem* river valley can only be accessed by foot or canoe. The villages are spread out in hamlets owned by large families that live in several *honai* or traditional houses. As a rule, the families stay close to their farms, as the distances between hamlets are quite far, as much as a several-hours' or even a day's walk across hills, forest and rivers. *Jayawijaya's* rough rural terrain serves as a challenge for electoral operations because it does not allow the KPUD to set up polling stations close to the communities of the voters. It can only set up one station in each district (except in the urban areas where the polling station may be installed at each village or *Kelurahan*.) Unfortunately, this situation provides the perfect argument for the implementation of the *noken* system. The same difficulties are experienced by the *Panwaslu* as they find it nearly impossible to carry out electoral justice, such as dealing with claims of fraud during the election period. They cannot investigate incident reports because the difficulty of access does not allow them to act within the seven-day expiry limit after the incident occurs, which is required by law.

### **4.3 The Emergence of the Big Men in Decision-Making**

As described in Chapter II, the Big Men play a dominant role in tribal life and greatly influence the electoral cycle. Their position in the community is important enough to allow them to influence actual election outcomes. The phenomenon of the

Big Men is also a part of other Melanesian societies as it has become a way of life where communities allow individuals to act as a proxy or representative for all during the most important occasions. Several references to Big Men can be seen in anthropological works by Marshal D. Sahlins (1963), Howard Van Trease (2005), and Francis Fukuyama (2011) that support this researcher's arguments on the challenges of tribal leadership to democratic elections, and on the difficulty in imposing modern political institutions on Melanesian countries, including Papua.

Sahlins describes the Big Men as a particular type of leadership that appears locally in the underdeveloped setting of Melanesian countries. It is a personal power. The Big Man does not gain status by rising to office. He does not succeed to or get installed in an existing position of leadership over political groups. The status is attained as the outcome of a series of individual performances that elevate the person above the average people and attract around him a coterie of loyal, lesser men. Sahlins further explains that the followers' allegiance to the Big Man is a reflection of their respect for his kinds of skills and magical powers such as gardening prowess, mastery of oratory, and bravery in war or feuds. Usually decisive is the use of one's skill and effort in a particular direction, the amassing of goods, most often pigs, shell monies and vegetables, and distributing them in ways which build a name for cavalier generosity, if not for compassion (Sahlins, 1963, pp. 285-303). The same line of thought is set forth in Fukuyama (2011, pp. x-xi), and Silak (2011, p.81).

Sahlins also describes the Big Man's double-sided authority, his field of influence divided into two distinct sectors. Sahlins introduces the terms 'center-man' and 'man of renown'. As a "center-man" connotes, a cluster of followers are gathered around him as an influential pivot. Socially, it implies the division of the tribe into political in-groups dominated by outstanding personalities. It is not that the center-man rules his faction by physical force, but his followers do feel obliged to obey him, and he can usually get what he wants by haranguing them – public verbal suasion is indeed so often employed by center-men that they have been styled 'harangue-utans'. And as a 'man of renown' connotes, in the broader tribal field he is a man who is not so much a leader as he is a kind of hero. The political power of Big Men has also been observed by Howard Van Trease in the island nation of Vanuatu, in the South Pacific Ocean, where they have significant influence on elections. He also noted that the Big Men are

factors in political instability in that country; due to competition between rival Big Men that has reached an extreme level. He describes an unstable government caused by a fluid and highly factionalized party system. It has brought to the country multiple changes through 18 unstable coalition governments since 1991 (Van Trease, 2005, pp 296-332).

Van Trease also describes the reawakening of the traditional Melanesian style of politics in Vanuatu during the mid-1980s, a politics of personality involving strong Big Men. A number of individuals began to build support in their home communities based on local issues and personal qualities. Politics turned into intense localism. This problem also became a feature of politics in neighboring Melanesian countries such as the Solomon Islands and Papua New Guinea. This motivated Vanuatu to adopt the Single Non-Transferable Vote (SNTV) to prevent the transferring of votes and to ensure all citizens the right to vote. In order to acquire and consolidate power, Big Men in Vanuatu distribute ministerial portfolios and administrative positions in order to provide access to power and monetary rewards, expecting political support in return. Often Vanuatu's Big Men themselves have been seduced for political agenda of political leader in Vanuatu. With bribes and largesse by individuals who are mainly from the business sector (Van Trease, 2005, pp. 296-332).

The latest acknowledgment of the Melanesian leadership style in the neighboring territory of Papua New Guinea (PNG) and the Solomon Islands was Fukuyama's observation that the Big Men are the one challenge that most need to be overcome in order to promote an electoral regime in line with liberal democracy (Fukuyama, 2011, pp. x-xi). In the recent Papuan context, the Big Men appear in the form of a political elite, holding offices such as *bupati* or *vice-bupati* and mayor or vice-mayor at the same time that they are heads of tribes. The combined power of the Big Man and incumbency in office provides them the opportunity to take control of institutions and electoral processes. As Judge Sodiki mentioned in an earlier chapter II the chieftains guide the communities through one-way instruction as to which candidates they will vote for. And usually, the communities accept the will of the Big Men – with or without conditions.

At the polls, then, only a few officials and elders busily punched the ballot papers on behalf of everyone. Meanwhile, the villagers celebrated with the *bakar batu*

festivities which included the wild boars provided by the Big Men. The wild boars could only be offered by a candidate or other person who was wealthy enough to buy them. However, this phenomenon in *Wamena* showed that actually it was not only the Big Men the chieftains were obeying, but also the religious leaders. This also contributes to the doubts raised by this research whether the *noken* system is really rooted in Papuan cultural practices. Yet it has found no convincing references to the *ikat suara* (consensus vote). The *ikat suara* was about a willing consensus, not about a mixture with the coercive election practices that were carried out during the New Order era (1967-1998) when Golkar's agents controlled the area and forced political affiliation through the chieftain and Big Men.

The Big Men are vital to outsiders who want to intervene in local election administration. On the one hand, through the Big Men an outsider can bring influence to bear on election officials, be it the KPUD and *Bawaslu* on the provincial level, or their subordinates on the *Kab/Kota*, district and *Kampung* level. At the grass roots level, election officials are often nominated according to the advice and guidance of the Big Men. Sometimes they use family ties to become members of the PPK, PPs and KPPS in order to ensure control over the elections. Any protests from opponents usually produce conflict within the tribes, with those standing against the order of the chieftains considered as the enemy. On the other hand, the politics of the budget are also used to influence elections. Local elections are funded by local budgets. Therefore, the incumbents are able to intervene in the budget process in order to look after their own interests. This practice has occurred in many elections without any significant attempt to correct it.

## CHAPTER V

### CONCLUSION

#### 5.1 Summary Findings

The research found a chaotic electoral administration in the recent Papua elections, part of the caused are dispute that occurred at early stage of the candidacy process, poor voter list quality, Professionalism of the elections official, systematic frauds, and the last but most important are control of the incumbent over the electoral processes in including budget and government apparatus for their benefit. The *noken* system applied inconsistency and attracts frauds in every level of implementation. The vote rigging happened openly as the consequences of the communal proxy-vote, but voters have no say to avoid problem. The research found phenomena of the emergence of big-men that plays critical role to pursue the tribe's elders for the community support and use cash, kind, and threat to achieve their goal. A big-man founds in much form but at the recent context come to existence of incumbent.

The research notices cultural nuance within the *noken* System which is articulated by the use of *noken*-bag. The research also found evidence of the tribe system on communal decision making for particular issues whereas everyone is involve as invested on Socrates (2010, p.128) and Silak (2011, p. 61) pieces. However, regarding the elections, the implementation of communal proxy-vote is something that unnecessary rooted from the same practice; instead it is suspiciously inherited from ill practice or frauds elections that had been continuously happened in previous elections to control the votes. The research encounter evidences of the practices of previous regime to grab the vote even without polling take places as stated by Sumule (2012), Bhakti (2011) and Araf, et al., (2011). Therefore, the notion of *noken* and communal proxy votes embedded within likely a build-in customs from decades of rigging practices. The practice is continue as pre-invented system with traditional taste to keep system going and benefited particular power.

The research also finds a verdict of the Constitutional Court which legalized *noken* in Papua is fairly constitutional; the court has a judicial power within the constitution to rule the decision. The Constitutional Court decision is consider legal innovation despite contradiction between Articles 18(B) of the Constitution that provide recognition to local customs and cultural practices to the extent that they still exist in the society and article 18(4) of the Constitution that mandated democratic elections for the local elections, as well as electoral principles that stated within the Article 22E (1) of the constitution. The research found exhaustive legal appeals as the Constitution court decision have *nebis-in-idem*<sup>1</sup> principle. However, criticism shall be address to the CC's decision as it is not set a time frame when such practice shall be remedy to help authority to launch deliberative effort for the Papuan to reach certain level of maturity for democracy enjoyment as other provinces in Indonesia.

The research found the asymmetric elections is posing discrimination, and the *noken* system is symbolizing denial for citizen voting rights due to communal proxy-vote effect. The system in general is disrespect norm and democratic elections principles in Indonesia. However the government must have its political motivation by the asymmetric election which is partly to cope Papuan political dynamic, to calm growing independence movement, and to show the sympathy for improve Papuan social, economic, and political development. This opportunity also was ride by the ruling party with tailor mutual cooperation with big-men to steer the political influences over the electoral politics in the land. The *noken* is providing a nice occasion to win the elections where proxy-vote is become tools to grab maximum votes in the area.

I argue here the *noken* system shall be dictated to follow norm, principles and respect the rights of citizen in participate in the process. This mean while tolerating the use of unique *noken*-bag, the voting has to be conditioned with secret vote, and the enforcement of one-man-one-vote rather than what one-man-all-vote. Therefore there is a perfect harmony between the culture practice and the notion of democratic elections. this steps will save-guard democracy development in Indonesia

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<sup>1</sup> *Nebis-in-idem* is a legal doctrine to the effect that no legal action can be instituted twice for the same cause of action. It is a legal concept originating in roman civil law, but it is essentially the equivalent of the double

in the occasion awakening of similar demand from other tribal communities for the same asymmetric treatment as Indonesia is home of thousand tribes where each practicing distinct custom and culture. Indonesian court and authority can be in the better position to negotiate such demand with non-compromise norms, principle and respect to the citizen rights to participate in the elections directly, and/or become the candidates.

The few details on the conclusion are discussed below:

### **5.1.1 Chaotic and Fraudulent Electoral Processes**

The election frauds are predictable as result of the *noken* system which is implemented in accordance to the whim of the chieftain or big-men. The inconsistencies of the voting are mostly manifest to the poor training quality of polling officials and/or their denial to comply with procedures. However, in the case of Jayawijaya the worse has not happened as the elections done without any major casualties of death as it was indeed unbalance/unequal competition. A pair of independent candidate challenged the incumbent who is supported by 38 Political parties. The story would likely be different if this was a competitive election. The success of the Jayawijaya elections story with zero casualties is also credited to the Papua police chief who initiated measures to mitigate the conflict and took precautionary steps to discipline his forces for neutrality.

Election fraud was happen collectively and structurally in the form of (i) use of money to influence the voting; (ii) Intimidation; (iii) absence of secret votes; and (iv) absence of one man/one vote procedure. None of these are new for the Papuans; they have been repeatedly reported by the media, poll-watchers, and the electoral official. However, there was no significant effort to correct the situation. These have been collectively committed by elections official as the effect of the *noken* system with ignorance of the provision and prohibition as the *noken* system is being implemented inconsistently. The polling and counting procedure were set up in accordance to the instructions of the big-men. The massive election frauds were also committed structurally since everyone appears to be aware of the source of the violation. However, there were less cases reported to Bawaslu in Jayawijaya, and nor of the case continue to the investigation and prosecution level.

The inconsistency of the voting occurred primarily from lack information to the polling officials. A newly regulation regarding the *noken* voting system guideline that set by the KPUD did not fully understood by the electoral official. Other factor is the polling official ignored such regulation as they perform their own way of interpretation on such system. However, the worst did not happen in Jayawijaya's election. The elections were carried out without major incidents, even though it was an unfair competition with independent candidates challenged by incumbents who were supported by all 38 parties in the regency. The result could be very different if this had been a truly competitive race. The police commander's initiative to prevent conflict by urges his forces to remain neutral was indeed commendable.

Electoral Frauds happened in collective and structurally. These frauds were discussed in Chapter 3 and sub-divided as : 1) the use of money to influence the voting; 2) Intimidation; and 3) The absence of secret balloting and a one man/one vote procedure. None of these are new for the Papuan; they have been repeatedly reported by the media, polling watchers, the KPUD and the elections supervisory body. However, in this election there was no significant effort to correcting the situation.

The implementation of the *noken* system in Papuan turned into open soft-capturing against people votes and such acts are legitimated by the law. The communal consensus and communal proxy-vote that are being the essence of cultural articulation on the *noken* system are extremely critical for interferences of dominant personality or elites that exist in tribal structures. The consensus making process within the community to decide their votes is rather unclear, although cultural practices could not be measured but is worth for scrutiny on how genuine the process are, and whether each member of community involved and their concern have been addressed. So far the research witnessed one-way and one-sided communication during the community gathering.

A chieftain who is back-up by the youths dictates the vote pattern, the people are then asked to raise their hand to show their agreement or approval. It is very rare the crowd will oppose the inquiry, but a case of denial that happened in District Kuari, Tolikara regency ended up with an assassination. The research could not find other method that can associate with internal consensus mechanism, giving rise to doubts if such methods exist for electoral decisions. The research sees a

phenomenon of big-men, a typical Melanesian leadership style that emerged within the Papuan elites that have grown simultaneously with the direct elections events, decentralization policy, and political dynamics between Jakarta and Jayapura. The Papuan elite event seems comfortable to utilize special autonomous law of Papua (SALP) that given to Papua and gain benefit and interest of particular tribes or groups.

As mentioned earlier, the previous elections were full controlled by military and government for their benefit. However, the Papuan especially those who lives at mountain still could not enjoy their political rights as their franchise are seized by the practices of communal proxy-votes that is embedded within the *noken* system. Further, the local elections in Papua also poses discrimination against non-native Papuan for candidacy for the head of provincial, municipal and regency as the eligibility of the candidates are exclusively preserved for the native Papuan only. Without prejudice to the Papuan interest to preserve the cultural practice, as it is guaranteed in the Special Autonomous Law No 21 (2001), but such as asymmetric elections would not achieve the essence that contains within the elections principle of universal franchise and public participation as stated in UDHR (1948) and ICCPR (1966) and other principles related to the elections. Despite critiques and inconsistencies in the practice, the enumeration of *noken* system is strengthened and is likely to continue for future local elections in Papua.

### **5.1.2 Exhausted Legal standing on Asymmetric Elections**

Reviewing the legal framework governing of elections in Indonesia, the 1945 Constitution has provided sufficient foundation to form fair and free elections. While article 18(4) of the Constitution (1945) obliges the local government to be elected democratically, but the Article 18-B of the Constitution (1945) recognizes and respects to units of regional authorities that are special and distinct, and it recognizes and respects the traditional communities along with their traditional customary rights. Although experts have varying interpretations of the above constitutional provisions, the Court has gave exception to the Papuan to exercise their elections differently through Constitutional Court decision No. 47-81/PHPU.A-VII/2009. The decision allows the *noken* system as a voting method in Papua. This Court decision is considered a legal innovation/invention which is acceptable within the Indonesian

legal system. Unfortunately despite controversies that surround the issue, the decision of the court is final and legally binding, with *nebis-in-idem* principle. This means the legal exhaustion is happen after the Court decision, therefore the annulment of the *noken* system is unlikely happen in the coming future.

The main concern is actually laying within the asymmetric election that applied in the recent electoral set up in Papua, especially the *noken* system with communal proxy-vote embedded therein, and provision for candidacy that is reserved for the natives only. Both are the result of political and legal processes that have been discussed in almost a decade to preserve the local customs/culture and to provide better opportunities for the locales to participate in the political contest despite the controversy on its constitutionality and despite the absence of the universal democratic election principles. This legal innovation appears to result from the ambiguity of the constitution to deal with its two articles that actually are good in two different aspects but it is definitely challenging to be combining together.

The recent legal arrangements are mainly disembody from the political consensus that brings forth the SALP (2001), and later in 2009, the constitutional court legalized a *noken* system as legal innovation through judiciary process. The SALP's noble intention is to reduce the radicalization of pro-independent movement due to the disappointment on the native Papuan as stipulate in Chapter 3. The Court decision has also been regarded as a legal innovation. Both have unique constitutional positions, although they contradict with other articles of the 1945 constitution and other regulations mandating the creation of the democratic elections.

A legal clarification is urgently sought to set up the condition and timeframe of the asymmetric elections held in order to provide remedy in near future. Enhancing electoral justice mechanisms is also critically needed to deter electoral fraud in the future elections. The asymmetric way shall not be allowed to continue as it is being implemented at present as it undermines the civil and political rights of the citizens. It also weakens the quality of the elections itself. Despite ongoing debates, the electoral stakeholders and law makers need to start rethinking short and long-term strategies to correcting the legal and practices of such asymmetric elections as stated by Bambang (2014), Harun (2014) and Surbakti (2014). The GoI and election officials also oblige to provide political education to the Papuan. This will most probably can

increase the level of political maturity among Papuans and change the electoral condition in the region.

### **5.1.3 More politic rather than cultural principles**

At the outset of the recent electoral politics in Papua, the asymmetric election is pushed along with intertwined political mutualism that was tailored between Papuan elites and Jakarta's interest. It is known that the Papuan elite could not stand-alone to perform their political agenda without collaboration with National parties. At the same time, the national political parties also have various interest in return related to the Papua, few most visible are control over natural resources and national defense. The ruling national party likely earns more benefits as they can enforce its political connection and bureaucracy machinery. The data on table-11 shows the component of political parties who supported the candidacy and how the main ruling party grabbed almost half of Kabupaten/Kota in Papua including the Governor position.

However, the study stresses its findings on inadequate evidence of the Papuan culture have something to do on the elections, although indigenous democratization in decision making of the native has been described by Silak (2011), Socrates (2010), and Djoyosoekarto (2008). The study found exaggeration of cultural label by political elites who have benefited from the situation, especially the chieftain and politicians. There is no sufficient evidence if the balloting with *noken* voting System is rooted in the cultural practice. However, it is widely acknowledged that the power of the chief of tribe to perform social-economic and politic representation of his tribe that could refer as ambiguous justification for communal representation on election in Highland region of Papua. The *kepala suku besar* or big-man superiority is eminent; more over it is normally assisted by the *Panglima Perang* (warlord/commander) within his tribe and other allies within their tribal territory that also contributes support to the shape of one agreeable political choice within the community.

This research would argue a realistic explanation where the communal proxy-vote is inherited from the previous elections in the New-order era which evidently fullest with anomalies. The actors involved have committed soft ballot

capture that promotes communal proxy-vote methods. The earlier story even describes the implementation of the *Pepera* or so-called popular consultation. It was said to be conducted with 1025 selected representatives' under-intimidation to make decision on behalf of the people of the communities that they represent to vote for in favor for Indonesian side (Araf et al. p. 50). Almost similar situation happens again during the New-order era when the ruling party Golkar deliberately demanded victory to secure their political position and forced the local apparatus through the support of tribe entity. The story is described by Sumule (2002, pp.73-74) and Bhakti (2004, p.2) on how the apparatus behavior on the elections during the New-Order bids are more convincing toward the argumentation how the *noken* system was shaped.

However, it is important to highlight that the *noken* voting system, with pre-consensus votes, has attracted the emergence of the big-men to the mainstream electoral politics. This goes simultaneously with the reality of the Papuan elite trying to use the cultural label create spaces to maneuver and maintain their interest. In the recent political development in Papua, the notion of big-men sighting is different from what the olden days known as hero, wise-man, or man of renown into the figure of incumbent bupati/vice-bupati or wealth candidates. The chieftain from smallest tribe appears as the government apparatus, chief of district, etc, they help big-men to holding their position. These government apparatus status combine with their cultural position is very effective to sustain the power of the big-men. They are all normally being recruited as the big-men's team to arrange necessary measure to secure the vote and political game in the region. Thus this will also co-exist with the role that is played by the central government through its political party system in the game.

This research would argue a realistic explanation where the communal proxy-vote is inherited from the previous elections in the New-order era which evidently is filled with anomalies. The actors involved have committed soft ballot capture that promotes communal proxy-vote methods. The earlier story even describes the implementation of the *Pepera* or so-called popular consultation. It was said to be conducted with 1025 selected representatives under-intimidation to make decision on behalf of the people of the communities that they represent to vote for in favor for Indonesian side (Araf et al. p. 50). Almost similar situation happens again during the New-order era when the ruling party Golkar deliberately demanded victory to secure

their political position and forced the local apparatus through the support of tribe entity. The story is described by Sumule (2002) and Bhakti (2011) on how the apparatus behavior on the elections during the New-Order bids are more convincing toward the argumentation how the *noken* System was shaped.

#### **5.1.4 Breach of Human Rights Principles**

Holding genuine elections is parallel with enabling environment for the creation of universal franchise, freedom of expression, secret vote, equal level playing field, absence of discrimination, as well as compliance to other related human rights principles. With respect to the Constitutional Court's opinion that articulates the Papuan culture with its *noken* System. Thus, the effort for enjoyment of the modern democracy in Papua is still possible to be embodied with effort to modify details within the *noken* System to be as much as possible respect every right enshrined in the UDHR (1948), ICCPR (1966), and Indonesia constitution (1945). The *noken* system will become a meaningful cultural representation if every indigenous community could empower themselves for democracy and human rights consciousness, and enable themselves to decide the best for their future without undue domination from the big-men. This could be possible through continuous political and voter education to every unit of communities in the rural far-flung areas of the Papuan tribes.

The local elections in Jayawijaya have shown scores of incompliance toward electoral principle and fundamental rights on the Papua local elections that streams below:

**a) Rights to Participate** in the local elections in Papua is greatly indiscriminate by the notion of the SALP (2011). This provision has violates the principles elections preserved within Indonesia Constitution (1945), and other election governing laws. The current arrangement also undermines the fundamental human rights principle stipulated within Article 21 of UDHR that guarantee: "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives...The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall

be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.”

Where the requirement was elaborated in the ICPPR, article 25 stipulated as follows: “Every citizen shall the rights and opportunity, without any distinctions mentioned in Article 2<sup>2</sup> and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors...”.

**b) Universal Franchise and voting Secrecy** are two obligations that is directly affected by the implementation of the *noken* system. The voters could not exercise their individual rights to cast the ballot according their will. Although arguably the voter could express their concern during the consensus process but it is unclear how the process was done. This can be presumed that the communities have little space for their expression. The voting secrecy is automatically compromised as the voting preference are displayed and described at the end of consensus conclusion, more over if the symbolic voting take place in front of the community.

**c) Unequal Level Playing fields** is more visible and blatantly happens in the Papua local elections where the incumbent or candidates who have access to bureaucracy and other state-resources potentially abuse the power for their benefit. The experiences of Jayawijaya is proven if the incumbent play role to set up winning condition by using government bureaucracy to help his campaign and use development funds to consolidate the political party in order to support his candidacy. This phenomena is actually also happening in many parts of Indonesia, especially areas where there is particular domination of political dynasties with ineffective law enforcement and media coverage. But in Jayawijaya unequal level playing field is become very obvious.

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<sup>2</sup> Article 2 (1) ICCPR is categorized kind of distinction within race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status

**d) EMBs partiality** is compromised on the local election in Jayawijaya and it is confirmed by the dismissal of the four KPUD members by the honorary council of electoral management bodies, or DKPP for misconduct during the candidacy registration process. Indeed the EMBs in Papua are vulnerable for influences of the incumbent, powerful candidates, and big-men. The neutrality of election officials in various levels including in the polling station is doubted because independent person is likely difficult to be found as everyone are related, within families, and ethnic communities. The EMBs must be independent and competent to effectively administer the electoral process in order to increase public confidence and political competition.

**e) Electoral Justice** is implemented ineffectively with under performance of the Bawaslu, the body authorized to supervise the elections on the field. The Bawaslu worked with inadequate capacity and budget, and they face great challenges as the law provides very short period of 7 days to conduct investigation after they receive the report. Partiality of the Bawaslu in the provincial level and their subordinates are also put in question. However, other electoral justice element in Jakarta, the Constitutional court, and DKPP are performing quite effectively. The Constitutional court could settle dispute cases that occurred from Jayawijaya elections in a timely manner, while the DKPP is commended for its dismissal for ethical misconduct of the KPUD in Jayawijaya.

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## **APPENDICES**

## APPENDIX A

**Table 1- Detail implementation of *Pepera* in Papua (1969)**

Date	Regency	Member of Consultative <i>Pepera</i>	Population
<b>14 July 1969</b>	Merauke	175	144.171
<b>16 July 1969</b>	Jayawijaya	175	165.000
<b>19 July 1969</b>	Paniai	175	156.000
<b>23 July 1969</b>	Fakfak	175	43.187
<b>26 July 1969</b>	Sorong	110	75.474
<b>29 July 1969</b>	Manokwari	75	49.875
<b>31 July 1969</b>	Teluk Cendrawasih	130	91.870
<b>2 August 1969</b>	Jayapura	110	83.760
<b>Total</b>		1.025	809.307

(Source: Araf, et. al, 2011. p 54)

## APPENDIX B

**Table 2 - Indonesia's Elections Figure 1967 To 2009**

New Order Regime Period			
Elections	Descriptions		
1967	<b>Soeharto came to power;</b>		
<b>1971</b>	10 Political Parties	PPI <sup>1</sup>	<i>Golkar</i> won 236 of 360 seats
<b>1977</b>	3 parties	PPI	<i>Golkar</i> won 232 of 364 Seats
<b>1982</b>	3 Political parties	PPI	<i>Golkar</i> won 299 of 400 Seats
<b>1992</b>	3 Political parties	PPI	<i>Golkar</i> won 282 of 400 Seats
<b>1997</b>	3 Political parties	PPI	<i>Golkar</i> won 236 of 360 seats
PERIOD OF REFORM ERA / TRANSITION			
<b>1999</b>	Multi party; 48	PPI + Political parties	<i>PDIP</i> won 154 of 462 seats Abdurahman Wahid – Megawati elected president /vice president
<b>2004 Parliamentary &amp; Presidential</b>	Direct Elections 24 Political parties	KPU: 11 Independent Commissioner	<i>Golkar</i> won 129 of 550 seats <sup>2</sup> SBY – JK won 60,62% VS Mega-Hashim 39,38% <sup>3</sup>
<b>2009 Parliamentary &amp; Presidential</b>	Direct Elections 44 Political parties <sup>4</sup>	KPU: 7 Independent commissioner	<i>PD</i> won 150 of 560 Seats SBY – Boediono won with 60,80 % popular vote <sup>5</sup>

Source: KPU<sup>6</sup> and various articles<sup>7</sup>

<sup>1</sup> PPI is Panitia Pemilihan Indonesia, or Indonesia Elections Committee, an ad-hoc body under Ministry of Home Affair.

<sup>2</sup> <http://partai.info/pemilu2004/hasilpemilulegislatif.php>

<sup>3</sup> <http://partai.info/pemilu2004/index.php>

<sup>4</sup> [http://www.seasite.niu.edu/indonesian/Indonesian\\_Elections/contestant2009.htm](http://www.seasite.niu.edu/indonesian/Indonesian_Elections/contestant2009.htm)

<sup>5</sup> [http://www.kpu.go.id/dmdocuments/saku\\_n.pdf](http://www.kpu.go.id/dmdocuments/saku_n.pdf)

## APPENDIX C

**Table 3 - Indonesian 1997 Elections Result & Seats Allocation<sup>8</sup>**

No	Party	Votes	%	Seats	%
1	GOLKAR	84.187.907	74,51	325	76,47
2	PPP	25.340.028	22,43	89	20,94
3	PDI	3.463.225	3,07	11	2,59
Total		112.991.160	100	425	100

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<sup>6</sup> [http://www.kpu.go.id/index.php?option=com\\_content&task=view&id=43&Itemid=66](http://www.kpu.go.id/index.php?option=com_content&task=view&id=43&Itemid=66)

<sup>7</sup> <http://partai.info/pemilu2004/hasilpemilulegislatif.php>

<sup>8</sup> <http://electionobserver.blog.com/2009/02/28/hasil-pemilu-1997-dpr-ri/>

## APPENDIX D

**Table 4 - Indonesia 1999 Snap's Election Result & Seats<sup>9</sup>**

No.	Political Party	Votes DPR	Seat Without SA	Seat without SA
1.	PDIP	35.689.073	153	154
2.	Golkar	23.741.749	120	120
3.	PPP	11.329.905	58	59
4.	PKB	13.336.982	51	51
5.	PAN	7.528.956	34	35
6.	PBB	2.049.708	13	13
7.	Partai Keadilan	1.436.565	7	6
8.	PKP	1.065.686	4	6
9.	PNU	679.179	5	3
10.	PDKB	550.846	5	3
11.	PBI	364.291	1	3
12.	PDI	345.720	2	2
13.	PP	655.052	1	1
14.	PDR	427.854	1	1
15.	PSII	375.920	1	1
16.	PNI Front Marhaenis	365.176	1	1
17.	PNI Massa Marhaen	345.629	1	1
18.	IPKI	328.654	1	1
19.	PKU	300.064	1	1
20.	Masyumi	456.718	1	-
21.	PKD	216.675	1	-
22.	PNI Supeni	377.137	-	-
23.	Krisna	369.719	-	-
24.	Partai KAMI	289.489	-	-
25.	PUI	269.309	-	-
26.	PAY	213.979	-	-
27.	Partai Republik	328.564	-	-

<sup>9</sup> [http://www.kpu.go.id/index.php?option=com\\_content&task=view&id=42](http://www.kpu.go.id/index.php?option=com_content&task=view&id=42)

**Table 4 - Indonesia 1999 Snap's Election Result & Seats (cont.)**

<b>No.</b>	<b>Political Party</b>	<b>Votes DPR</b>	<b>Seat Without SA</b>	<b>Seat without SA</b>
28.	Partai MKGR	204.204	-	-
29.	PIB	192.712	-	-
30.	Partai SUNI	180.167	-	-
31.	PCD	168.087	-	-
32.	PSII 1905	152.820	-	-
33.	Masyumi Baru	152.589	-	-
34.	PNBI	149.136	-	-
35.	PUDI	140.980	-	-
36.	PBN	140.980	-	-
37.	PKM	104.385	-	-
38.	PND	96.984	-	-
39.	PADI	85.838	-	-
40.	PRD	78.730	-	-
41.	PPI	63.934	-	-
42.	PID	62.901	-	-
43.	Murba	62.006	-	-
44.	SPSI	61.105	-	-
45.	PUMI	49.839	-	-
46.	PSP	49.807	-	-
47.	PARI	54.790	-	-
48.	PILAR	40.517	-	-
<b>Total</b>		105.786.661	462	462

## APPENDIX E

**Table 5 - Indonesian 2004 General Elections Result**<sup>10</sup>

Rank	Political Parties	Valid Votes		Seats
		Total	%	
1	Partai Golongan Karya	24.480.757	21,58	128
2	Partai Demokrasi Indonesia Perjuangan	21.026.629	18,53	109
3	Partai Kebangkitan Bangsa	11.989.564	10,57	52
4	Partai Persatuan Pembangunan	9.248.764	8,15	58
5	Partai Demokrat	8.455.225	7,45	57
6	Partai Keadilan Sejahtera	8.325.020	7,34	45
7	Partai Amanat Nasional	7.303.324	6,44	52
8	Partai Bulan Bintang	2.970.487	2,62	11
9	Partai Bintang Reformasi	2.764.998	2,44	13
10	Partai Damai Sejahtera	2.414.254	2,13	12
11	Partai Karya Peduli Bangsa	2.399.290	2,11	2
12	Partai Keadilan dan Persatuan Indonesia	1.424.240	1,26	1
13	Partai Persatuan Demokrasi Kebangsaan	1.313.654	1,16	5
14	Partai Nasional Banteng Kemerdekaan	1.230.455	1,08	1
15	Partai Patriot Pancasila	1.073.139	0,95	0
16	Partai Nasional Indonesia Marhaenisme	923.159	0,81	1
17	Partai Persatuan Nahdlatul Ummah Indonesia	895.610	0,79	0
18	Partai Pelopor	878.932	0,77	2
19	Partai Penegak Demokrasi Indonesia	855.811	0,75	1
20	Partai Merdeka	842.541	0,74	0
21	Partai Sarikat Indonesia	679.296	0,60	0
22	Partai Perhimpunan Indonesia Baru	672.952	0,59	0
23	Partai Persatuan Daerah	657.916	0,58	0
24	Partai Buruh Sosial Demokrat	636.056	0,56	0
	Total	113.462.414	100	550

<sup>10</sup> <http://partai.info/pemilu2004/hasilpemilulegislatif.php>

## APPENDIX F

**Table 6 - Indonesian 2009 General Elections Result**<sup>11</sup>

No	Political Parties	Votes	%	Seats
1	Democrat	21.703.137	20,85	150
2	Golkar (23)	15.037.757	14,45	107
3	PDIP (28)	14.600.091	14,03	95
4	PKS (8)	8.206.955	7,88	57
5	PAN (9)	6.254.580	6,01	43
6	PPP (24)	5.533.214	5,32	37
7	PKB (13)	5.146.122	4,94	27
8	Gerindra (5)	4.646.406	4,46	26
9	Hanura (1)	3.922.870	3,77	18
10	PBB (27)	1.864.752	1,79	LS
11	PDS (25)	1.541.592	1,48	LS
12	PKNU (34)	1.527.593	1,47	LS
13	PKPB (2)	1.461.182	1,40	LS
14	PBR (29)	1.264.333	1,21	LS
15	PPRN (4)	1.260.794	1,21	LS
16	PKPI (7)	934.892	0,90	LS
17	PDP (16)	896.660	0,86	LS
18	Barnas (6)	761.086	0,73	LS
19	PPPI (3)	745.625	0,72	LS
20	PDK (20)	671.244	0,64	LS

<sup>11</sup> <http://partai.info18/pemilu2009/>

No	Political Parties	Votes	%	Seats
21	RepublikaNusantara (21)	630.780	0,61	LS
22	PPD (12)	550.581	0,53	LS
23	Patriot (30)	547.351	0,53	LS
24	PNBK (26)	468.696	0,45	LS
25	Kedaulatan (11)	437.121	0,42	LS
26	PMB (18)	414.750	0,40	LS
27	PPI (14)	414.043	0,40	LS
28	Pakar Pangan (17)	351.440	0,34	LS
29	Pelopor (22)	342.914	0,33	LS
30	PKDI (32)	324.553	0,31	LS
31	PIS (33)	320.665	0,31	LS
32	PNI Marhaenisme (15)	316.752	0,30	LS
33	Partai Buruh (44)	265.203	0,25	LS
34	PPIB (10)	197.371	0,19%	LS
35	PPNUI (42)	146.779	0,14%	LS
36	PSI (43)	140.551	0,14%	LS
37	PPDI (19)	137.727	0,13%	LS
38	Merdeka (41)	111.623	0,11%	LS
	Total	104.099.785	100%	560
Source : KPU				

## APPENDIX G

Table 7 - Indonesian 2009 Presidential Elections Result by Province

Provinces	Candidates pairs of President & Vice-			Total Valid Votes
	President			
	Megawati- Prabowo [%]	SBY- Boediono [%]	Jusuf Kalla- Wiranto [%]	
<b>Aceh</b>	2,40	93,25	4,35	2 245 119
<b>Sumatera Utara</b>	0,03	93,28	6,69	4 539 195
<b>Sumatera Barat</b>	5,89	79,93	14,18	2 287 153
<b>Riau</b>	23,69	64,07	12,24	2 345 315
<b>Jambi</b>	29,17	59,41	11,42	1 560 500
<b>Sumatera Selatan</b>	39,57	54,07	6,36	3 838 344
<b>Bengkulu</b>	23,24	64,14	12,62	850 231
<b>Lampung</b>	24,13	70,23	5,65	3 992 345
<b>Bangka Belitung</b>	38,56	48,74	12,70	549 694
<b>Kepulauan Riau</b>	26,50	64,36	9,14	748 576
<b>DKI Jakarta</b>	20,42	70,36	9,22	5 035 956
<b>Jawa Barat</b>	26,21	65,08	8,71	22 104 722
<b>Jawa Tengah</b>	38,28	53,06	8,66	17 490 429
<b>DI Yogyakarta</b>	28,10	61,71	10,19	1 975 647
<b>Jawa Timur</b>	30,42	60,32	9,26	19 450 762
<b>Banten</b>	26,98	65,06	7,97	5 149 798
<b>Bali</b>	51,92	43,03	5,05	1 912 337
<b>Nusa Tenggara Barat</b>	8,31	74,63	17,06	2 269 826
<b>Nusa Tenggara Timur</b>	41,30	52,73	5,97	2 134 794
<b>Kalimantan Barat</b>	37,12	54,03	8,86	2 286 206
<b>Kalimantan</b>	42,30	48,32	9,37	1 016 711

Provinces	Candidates pairs of President & Vice-			Total Valid Votes
	President			
	Megawati- Prabowo [%]	SBY- Boediono [%]	Jusuf Kalla- Wiranto [%]	
<b>Tengah</b>				
<b>Kalimantan Selatan</b>	21,80	64,02	14,18	1 728 858
<b>Kalimantan Timur</b>	27,61	51,89	20,49	1 605 372
<b>Sulawesi Utara</b>	31,15	54,82	14,04	1 262 275
<b>Sulawesi Tengah</b>	8,35	50,53	41,12	1 324 798
<b>Sulawesi Selatan</b>	3,98	31,62	64,41	4 222 786
<b>Sulawesi Tenggara</b>	8,00	45,61	46,38	1 094 115
<b>Gorontalo</b>	6,46	44,22	49,32	545 504
<b>Sulawesi Barat</b>	4,63	50,75	44,62	578 929
<b>Maluku</b>	24,49	53,70	21,81	787 985
<b>Maluku Utara</b>	20,34	38,94	40,72	551 513
<b>Papua Barat</b>	10,49	73,95	15,56	424 043
<b>Papua</b>	5,62	74,05	20,33	1 860 096
<b>Overseas</b>	13,96	69,08	16,96	340 410
Total Valid Votes	<b>26,79</b>	<b>60,80</b>	<b>12,41</b>	<b>121 504 481</b>

Source: KPU

**APPENDIX H****Table 8- Elected DPR member – 2009 Constituency Papua Barat<sup>12</sup>**

Political Parties	Elected Candidates	Valid Vote	Rank
1. Golkar	Irene Manibuy, SH	45,790	1
2. Golkar	Robert Joppi Kardinal	34,855	2
3. Demokrat	Michael Wattimena, SE, MM	16,452	1

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<sup>12</sup> [http://mediacenter.kpu.go.id/images/mediacenter/hasil\\_pileg\\_2009/terpilih\\_dpr/77.PAPUA\\_BARAT.pdf](http://mediacenter.kpu.go.id/images/mediacenter/hasil_pileg_2009/terpilih_dpr/77.PAPUA_BARAT.pdf)

## APPENDIX I

**Table 9 – Elected DPR Member – 2009 Constituency Papua**<sup>13</sup>

No	Political Parties	Elected Candidates	Valid Vote
1	HANURA	Drs. M. Ali Kastella	100,465
2	PAN	H. Jamaluddin Jafar, SH	54,882
3	PKB	Peggi Patrician Pattipi	23,641
4	Golkar	Paskalis Kossay, S.Pd, MM	179,965
5	Golkar	Yorrys Raweyai	63,184
6	Golkar	Agustina Basik-Basik, S.Sos, MM, MPD	24,183
7	PDIP	Manuel Kaisiepo	15,110
8	Democrat	Etha Bulo	79,785
	Democrat	Diaz Gwijangge	59,935
9			
10	Democrat	Freddy Numberi	56,864

<sup>13</sup> [http://mediacenter.kpu.go.id/images/mediacenter/hasil\\_pileg\\_2009/terpilih\\_dpr/76.PAPUA.pdf](http://mediacenter.kpu.go.id/images/mediacenter/hasil_pileg_2009/terpilih_dpr/76.PAPUA.pdf)

## APPENDIX J

**Table 10 - Voter List of the Jayawijaya Election 2013**

No	Districts	Population	Voter registered			# Polling Stations
			Male	Female	Total	
1	Wamena		20,568	14,924	5,492	70
2	Trikora		1,463	1,365	2,828	6
3	Napua		1,847	2,055	3,902	8
4	Walaik		1,275	1,503	2,778	7
5	Wouma		2,410	2,047	4,457	12
6	Hubikosi		2,312	2,772	5,084	14
7	Hubikiak		2,377	1,993	4,370	10
8	Pelebaga		2,878	2,750	5,628	16
9	Ibele		1,541	1,587	3,128	8
10	Tailarek		2,103	1,593	3,696	10
11	Walelagama		1,531	2,200	3,731	8
12	Itlay hisage		1,618	1,646	3,264	7
13	Siepkosi		1,616	1,507	3,123	7
14	Kurulu		2,254	2,709	4,963	11
15	Usilimo		1,734	1,882	3,616	9
16	Wita weya		1,054	1,189	2,243	5
17	Libarek		1,044	1,181	2,225	5
18	Wadangku		916	1,019	1,935	5
19	Pesugi		1,444	1,844	3,288	7
20	Yalengga		2,290	2,930	5,220	13
21	Koragi		1,700	1,389	3,089	7
22	Bolakme		2,245	2,731	4,976	11
23	Tagime		1,985	1,653	3,638	9
24	Molagalome		1,210	2,830	4,040	12
25	Tagineri		2,319	1,698	4,017	9
26	Asologaima		2,330	2,609	4,939	10
27	Silokarnodoga		1,917	2,636	4,553	9
28	Pyramid		2,912	2,212	5,124	15
29	Muliama		2,053	3,073	5,126	10

No	Districts	Population	Voter registered			# Polling Stations
			Male	Female	Total	
30	Wollo		1,338	1,821	3,159	6
31	Bugi		1,449	2,359	3,808	8
32	Bripi		1,196	1,422	2,618	6
33	Asolokobal		3,459	3,308	6,767	17
34	Welesi		2,683	2,395	5,078	14
35	Asotipo		3,435	4,202	7,637	18
36	Maima		4,318	4,631	8,949	22
37	Musاتفak		1,357	1,702	3,059	8
<b>Source: KPUD Jayawijaya</b>		<b>199,557</b>	<b>92,181</b>	<b>93,367</b>	<b>185,548</b>	<b>429</b>

## APPENDIX K

Table 11- List of the Governor, Bupati, Mayors and the Deputies<sup>14</sup>

No	Prov/kab/kota	Name of the head of local government	Date	Innauguration	End of term	Party supporters	Elections/appointment	
							Elect	App
1.	Prov Papua	Lukas Enembe, S.IP, MH—	30-03-2013	09-04-2013	14-2018	PD,PKS, PKPB, PNIM, PNBKI, Patriot, PKPI	√	
		Drs. Benhur Tommy Mano, MM—Dr. H. Nuralam, SE, M.Si Mathius						
2.	Kota Jayapura	Mano, MM—Dr. H. Nuralam, SE, M.Si Mathius	15-07-2011	21-07-2011	21-07-2016	PDI-P, PKS, PKPI, Hanura	√	
		Awoitauw, SE, M.Si—						
3	Kab. Jayapura	Roberth Djoenso Darean, SH	13-09-2012	06-10-2012	06-10-2017	Patriot, PK, PB, PNIM, PNBKI, PDS	√	
		Yesaya Merasi						
4	Kab. Boven	Yesaya Merasi	08-10-2011	07-03-2011	07-03-2016	PD, PKPB,	√	

<sup>14</sup> Source: the Department of Regional Autonomous of Ministry of Home Affairs of Republic of Indonesia

No	Prov/kab/kota	Name of the head of local	Date	Inauguration	End of term	Party supporter	Elections/appointment
	Digoel		2010			PNBKI, PKS, PDK, PDI-P, PPRN, PK, PAN, PPI, PM, P.Patriot, PMB, PPPI, PPDI, PR, PBB, PPIB	
5	Kab. Merauke	Drs. Romanus Mbaraka, MT— Sunarjo, S.Sos	22-12-2010	08-01-2011	08-01-2016	PD, PDI-P, PKS, PNBKI, PR, PPP	√
6	Kab. Pegunungan Bintang	Drs. Wellington Lod Wenda, M.Si— Yacobus Wayam, S.IP	23-12-2010	17-01-2011	17-01-2016	P.Hanura, PBR, PD, PDS, PPD, PKDI, PPPI, PAN, PKB, Patriot, PPP, Gerindra	√

No	Prov/kab/kota	Name of the head of local	Date	Innauguration	End of term	Party supporter	Elections/appointment
7	Kab. Tolikara	Usman G. Wanimbo, SE, M.Si— Amos Yikwa, SP, M.Si Yuvensius Alfonsius	29-06-2012	10-07-2012	10-07-2017	Golkar, Hanura	√
8	Kab. Asmat	Biakai, BA, SH—Dr. Yulius Patandianan, SpB Drs. Mesak Manibor,	05-10-2010 07-03-2012	09-11-2010	09-11-2015s	Golkar, PKDI, PKPB, PKS, PDK, Gerindra	√
9	Kab. Sarmi	M.MT—Ir. Albertus Suripno	08-12-2011	28-12-2011	28-12-2016	Hanura, PKPI, PPRN	√
10	Kab. Biak Numfor	SEKDA (PLT)	-	-	-	PNS	√
11	Kab. Nabire	Isaias Douw, S.Sos— Mesak Magai, S.Sos	01-04-2010	04-05-2010	04-05-2015	PATRIO T	√
12	Kab. Jayawijaya	Wempi Wetipo, SH, MH—Jhon Richard Banua, SE	03-12-2013	18-12-2013	18-12-2018	PDIP,PD , PKPI, Patriot, Pelopor, PNBK, PAN, PPRN,	√

No	Prov/kab/kota	Name of the head of local	Date	Innauguration	End of term	Party supporter	Elections/appointment
						PBR, PKDI, PPDI, PKS, PPP, PKB, Golkar, Barnas, PDS, Hanura, PPIB, PB, PNI, PPI, Gerindra, PBB	
13	Kab. Kep. Yapen	Tonny Tesar, S.Sos— Frans Sanadi, B.Sc, S.Sos, MBA Hengki Kayame, SH,	30-08-2012	07-09-2012	07-09-2017	PKS, PPD, PPIB, PKPI, PD	√
14	Kab. Paniai	MH— Yohanes You, S.Ag, M.Hum	03-04-2013	16-04-2013	16-04-2018	PB, Barnas, PPI, PPD, PNIM	√
15	Kab. Mimika	Ausilius You, S.Pd, MM	21-02-2014	26-02-2014	26-02-2015	PNS	√

N o	Prov/kab/ko ta	Name of the head of local	Date	Innaug uration	End of term	Party supporter	Elections/app ointment
		(Temporary in charge )					
16	Kab. Puncak Jaya	Drs. Henok Ibo—Yustus Wonda, S.Sos, M.Si	12- 11- 2012	0812- 2012	08-12- 2017	PD, PDI-P, PBR, PPI	√
17	Kab. Warofen	Drs. Yesaya Buinei, MM— Yermias Bisai, SH	25- 10- 2010	15-11- 2010	15-11- 2015	Golkar	√
18	Kab. Yahukimo	Ones Pahabol, SE, MM—Drs. Robby Longkutoy, MM	21- 03- 2011	05-04- 2011	05-04- 2016	Golkar, PD, PKS, PDIB, P.Hanura, PKPI, PDP, PDK, PDK, PPRN, PDS, PNIM, PPDI, PKPB, PSI	√
19	Kab. Mappi	Stefanus Kaisma, S.Sos Ir. Benjamin	13- 01- 2011	09-02- 2012	09-02- 2017	PD, PDI- P, PAN	√

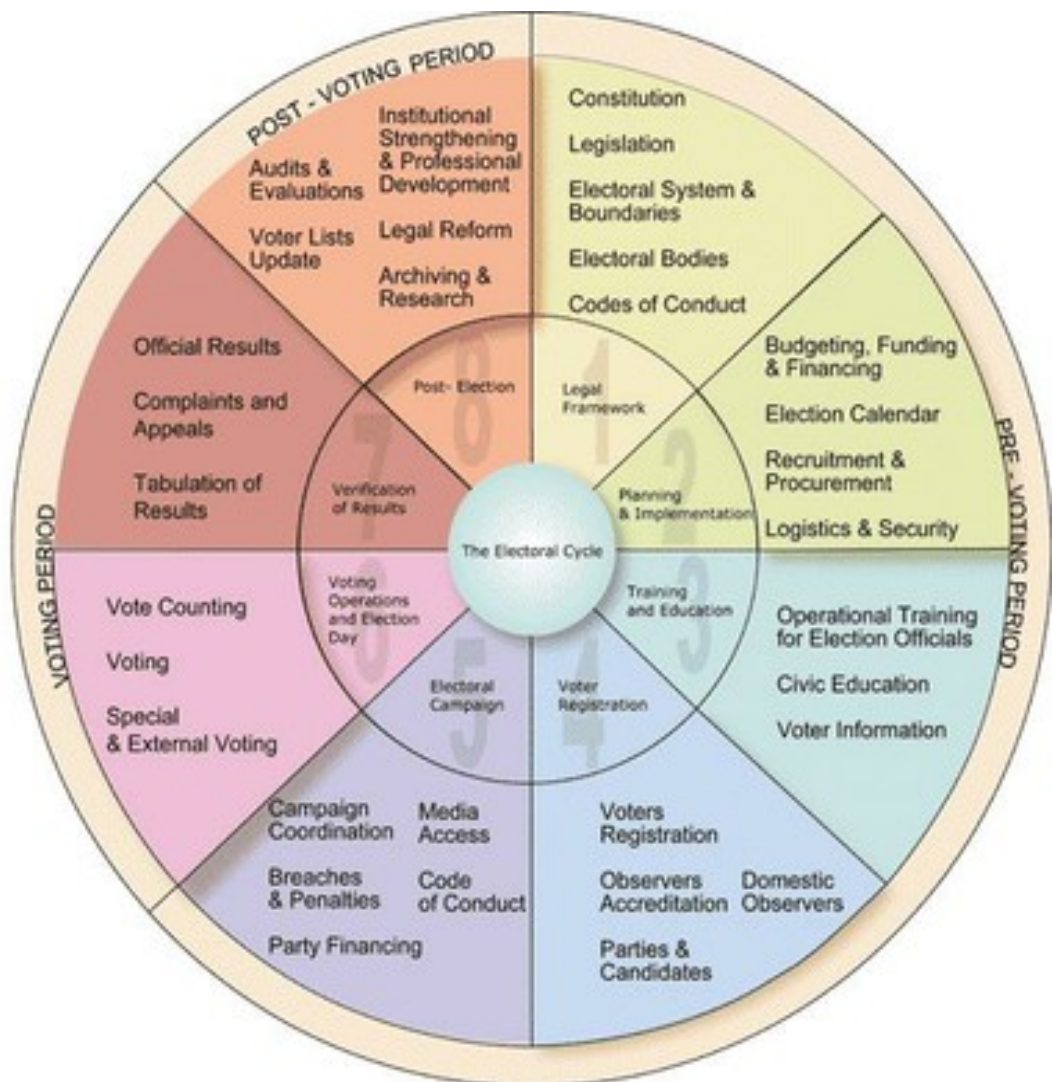
N o	Prov/kab/ko ta	Name of the head of local	Date	Innaug uration	End of term	Party supporter	Elections/app ointment
20	Kab. Keerom	Ngali Yusuf Wally, SE, MM Muhammad Markum, SH Fredrik	25- 10- 2010	13-11- 2010	13-11- 2015	PD, PKS, PBB, PAN	√
21	Kab. Supiori	Menufandu —Drs. Yan Imbab, SH, MH, MM	29- 04- 2011	21-05- 2011	21-05- 2016	PPRN,P DP,PPDI	√
22	Kab. Membramo Raya	Demianus Kyeuw- Kyeuw, SH—Robby Wilson Rumansara, SP	22- 12- 2010	15-01- 2011	15-01- 2016	Golkar, Patriot, PDIP, PR, P.Hanura, PAN, PKS, PNBKI, PD, Gerindra, PPP, PKPI, PPD, PPPI	√
23	Kab. Membramo Tengah	R. Ham Pagawak, SH, M.Si— Yonas Kenelak, S.Sos	08- 03- 2013	25-03- 2013	15-03- 2018	PD, Bamas, PB, Hanura, Pelopor, PPIB, PPDI, PK,	√

N o	Prov/kab/ko ta	Name of the head of local	Date	Innaug uration	End of term	Party supporter	Elections/app ointment
24	Kab. Yalimo	Er Dabi, S.Sos— Arkelas Asso, S.Sos	11- 05- 2011	11-06- 2011	11-06- 2016	PKDI, PDP, PBB, PKS PD, PKB, PDS, PNBK, PMB, PDI-P, PK, PKP, Barnas, PAN, PDK, PBR, PDP PKPB, PKS, PNIM, PM, PD, PBR, PPP, PDK, P.Hanura, PPD, PDI- P, PIB, Pelopor,, Barnas, PSI, PPPI, Patriot Golkar, PKS, PKDI, PDK,	√
25	Kab. Lanny Jaya	Befa Yigibalom, SE, M.Si— Berthus Kogoya, SH	28- 09- 2011	25-10- 2011	25-10- 2016	PBR, PPP, PDK, P.Hanura, PPD, PDI- P, PIB, Pelopor,, Barnas, PSI, PPPI, Patriot Golkar, PKS, PKDI, PDK,	√
2 6	Kab. Nduga	Yairus Gwijangge, S.Sos—Drs. Frans	10- 08- 2011	30-09- 2011	30-09- 2016	PKS, PKDI, PDK,	√

N o	Prov/kab/ko ta	Name of the head of local	Date	Innaug uration	End of term	Party supporter	Elections/app ointment
27	Kab. Puncak	Roberth Kristantus, MM	19- 04- 2013	25-04- 2013	25-04- 2018	PPRN, P.Barnas, PBR, PPIB PDI-P, PD, PKB, Pelopor, PPD, Barnas, PPDI, PKS, PKDI, PDS, Hanura PD,	√
28	Kab. Dogiyai	Drs. Thomas Tigi— Herman Auwe, S.Sos	26- 09- 2012	18-12- 2012	18-12- 2017	PMB, PKB, PR, PKP PDI-P, PIS, PKS, Hanura, PKPB, PKPI, PAN, PPPI, PBB	√
29	Kab. Deiyai	Dance Takimai, A.Ks— Agustinus Pigome, A.Mdp	09- 07- 2013	20-08- 2013	20-08- 2018	PAN, PPD, Barnas, PKDI	√
30	Kab. Intan Jaya	Natalis Tabuni, S.S, M.si—Yann Kobogoyauw , S.Th, M.Div	15- 10- 2012	22-11- 2012	22-11- 2017	PAN, PPD, Barnas, PKDI	√

## APPENDIX L

Electoral Cycle Graphic<sup>15</sup>



<sup>15</sup> Source : Paul Guerine (2007)

## APPENDIX M

**Table 12 – Summary - Bangkok Declaration on Free Elections**<sup>16</sup>

SEC	ART	KEY PRINCIPLES	IMPLEMENTATION /OBLIGATION
<b>PRE-ELECTION PERIOD</b>	<b>PREAMBLE</b>		
	<b>LEGAL FRAMEWORK</b>		
	1.	EMB Independence	(i) On the legal framework; (ii) transparent recruitment; (iii) free interference; (iv) and fiscal autonomy.
	2.	Universal Franchise	(i) The legitimacy of elections; (ii) upheld in accordance with each country’s context; (iii) voter age must be guaranteed.
	<b>TRAINING AND EDUCATION</b>		
	3.	Access to Voter Information	(i) Voter education is necessary; (ii) ensure that appropriate and accessible voter education; (iii) EMBs and state obligation throughout electoral circle
	4.	Training of Election Official	(i) EMB to ensure appropriate and quality training for staff; (ii) culture, integrity, transparency and accountability; (iii) fully train and knowledgeable.
	<b>PREPARATION OF THE VOTER LIST</b>		

<sup>16</sup> Digest from Bangkok declaration on Free elections text, available at: [aesforum.anfrel.org](http://aesforum.anfrel.org)

SEC	ART	KEY PRINCIPLES	IMPLEMENTATION /OBLIGATION	
ELECTION PERIOD	5.	Facilitating voter registration	(i) EMBs should promote the highest possible rate of registration, and conducted inclusive, convenient, and accessible to all. (ii) Active registration, EMBs to ensure that voters understand the deadline for registration and that there is sufficient time to register all potential voters	
	6.	Accuracy of the Voter List	(i) The EMB or other body responsible for the complete, current and accurate list. (ii) The accuracy of the voter list should be maintained	
	<b>ELECTORAL CAMPAIGN</b>			
	7.	Oversight for Campaign Finance	(i) Governments and lawmakers must ensure a rigorous legal framework that fairly regulates transparency on donations and expenditures. (ii) EMBs and governments must ensure laws are fully and fairly implemented, monitored and enforced. Including punishment for violators.	
	8.	Vote Buying	(i) A form of electoral frauds need devote resources to prevent, monitor, and investigate, and punishment. (ii) Political determination and strong public support is essential for success. (iii) Include on voter education campaign	
	9.	Impartial Coverage by Media	(i) State media should provide equitable space, time, and be fair in coverage for all political parties and candidates. (ii) Private media should strive to provide fair-minded coverage and analysis throughout the electoral cycle	

SEC	ART	KEY PRINCIPLES	IMPLEMENTATION /OBLIGATION
	10.	Election Violence	<ul style="list-style-type: none"> <li>(i) Election-related threats or violence must be urgently dealt with necessary social, political and legal actions.</li> <li>(ii) Efforts to pre-empt election-related violence should begin early and tackle causes and symptoms of violence</li> </ul>
	11.	Use of Government Resources	<ul style="list-style-type: none"> <li>(i) Electoral laws must prohibit the unfair use of government resources for partisan purposes.</li> <li>(ii) Governments must ensure that compliance is monitored, the law is enforced, and offenders are prosecuted.</li> </ul>
	12.	Codes of Conduct	<ul style="list-style-type: none"> <li>(i) Codes of conduct should be used to demonstrate the appropriate roles and responsibilities of the various election stakeholders in a free and fair election.</li> <li>(ii) Thorough measures should be employed to educate election stakeholders.</li> <li>(iii) prosecuted to the full extent of the law for unethical behavior</li> </ul>
	13.	Military and Police interference	<ul style="list-style-type: none"> <li>(i) Strong measures are required to ensure that security forces remain strictly impartial and non-partisan.</li> <li>(ii) Interference should be investigated and prosecuted.</li> </ul>
<b>VOTING OPERATIONS AND ELECTION DAY</b>			
	14.	Polling Station Management	<ul style="list-style-type: none"> <li>(i) EMBs should ensure that polling worker are well-trained and the procedures that must be followed.</li> <li>(ii) EMBs should ensure that polling worker receive voting materials and other resources on time.</li> </ul>

SEC	ART	KEY PRINCIPLES	IMPLEMENTATION /OBLIGATION
			(i) EMBs and other stakeholders provide affirmative measures to encourage full participation.
			(ii) Guarantee to ensuring access for registration, polling stations, and voter education for minority group.
	15.	Enfranchising Minorities, marginalized people and Person with Disabilities.	(iii) For IDPs and Migrant, Governments must ensure that people are empowered to vote in their locations.
			(iv) Planning and budget should be allocated for essential activities for enfranchise those groups.
	16.	Voter Living Abroad	(i) Where the financial and technical resources exist, countries should held overseas vote.
			(i) EMBs and other stakeholders must take positive action to encourage women to fully participate.
	17.	Participation of Women	(ii) EMBs must ensure that all women are able to vote according to their own choices.
			(i) EMBs, based on laws, should ensure all well-trained and non-partisan observer groups to observe all stages of election processes.
	18.	Accreditation of Observer	(ii) EMBs should set out clear rules for accreditation of domestic and international observers.
			(i) Election observation organizations should therefore work independently, and objective.
	19.	Effective and Professional Observer.	(ii) EMBs should insist on high standards e.g., the Global Network of Domestic Election Monitors (GNDEM) in the <i>Declaration of Global Principles For Non-Partisan Election Observation And Monitoring By Citizen Organizations</i> .

SEC	ART	KEY PRINCIPLES	IMPLEMENTATION /OBLIGATION
<b>Complaints and Electoral Dispute Resolution</b>	20.	Printing, Counting, Consolidating, Transporting and Storing Ballot	<ul style="list-style-type: none"> <li>(i) The process, both before and after voting, must be fully transparent to the public, political party and election observers.</li> <li>(ii) EMBs must ensure that the observers are given the access to observe.</li> </ul>
	21.	Electoral Complain System	<ul style="list-style-type: none"> <li>(i) EMBs must ensure that for clear complaint Processes, accessible to, and known by the public.</li> <li>(ii) EMBs should use voter education to ensure that every election stakeholder understands the electoral complaint process.</li> </ul>
	22.	Timely and Impartial Dispute Investigation and Resolution	<ul style="list-style-type: none"> <li>(i) Governments must ensure independency, impartiality, professionalism and sufficiently financed of EDR body.</li> <li>(ii) Time limits must be rigorously but fairly enforced.</li> </ul>
	Call to Action		



<b>ELECTORAL COMPONENTS</b>  <b>PUBLIC INT'S LAW NORMS)</b>	LEGAL FRAMEWORK	ELECTORAL SYSTEM &	BOUNDARY DELIMITATION	ELECTION MANAGEMENT	VOTER EDUCATION	CANDIDACY & CAMPAIGN	VOTER REGISTRATION	VOTING OPERATION	VOTE COUNTING	MEDIA	DISPUTE RESOLUTION
	Rights to a fair, and public hearing ICCPR, Art. 14			*							
Security of the person, ICCPR, Articles 9			*		*	*	*	*	*	*	*
States must take necessary steps to ensure the right, ICCPR, Articles 2 & 25	*	*	*	*	*	*	*	*	*	*	*
Rule of law (universal law)	*	*	*	*	*	*	*	*	*	*	*

Color coded indications:

- \* Macro Level Obligation
- \* Individual Rights and freedom

- \* Process Focus Obligation
- \* Foundational Obligation

**BIOGRAPHY**

<b>NAME</b>	Supriadi
<b>DATE OF BIRTH</b>	15 March 1976
<b>PLACE OF BIRTH</b>	Jakarta, Indonesia
<b>INSTITUTIONS ATTENDED</b>	Budi Luhur University (1994-1998) Bachelors in Management Informatics; Putra Bangsa University (2004-2008), Bachelor in Law; Mahidol University, (2010-2015), Masters of Arts (Human Rights).
<b>SCHOLARSHIPS RECEIVED</b>	--
<b>HOME ADDRESS</b>	Merit Place 316/54, Lat Phrao 87/10 Wangthonglang, Bangkok, Thailand, 10310 Telp. 02 Email: <a href="mailto:satoeichal@gmail.com">satoeichal@gmail.com</a>
<b>EMPLOYMENT ADDRESS</b>	105 Suthisarnwinnichai Rd, Huaykwang Samsennok, Bangkok, Thailand 10310 Telp. +66-2-27773627 Email: <a href="mailto:ichal@anfrel.org">ichal@anfrel.org</a>