



Customary Law Government and Voting Rights: Impact on Election Guarantee

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Abstract. This research aims to determine the influence of customary law characteristics on guaranteeing rights in holding elections. This research mainly focuses on traditional government and how the customary legal system influences the implementation of general elections in indigenous communities. This research uses a qualitative approach by conducting case studies in several traditional communities that have strong customary law systems. The research methods used include interviews and analysis to obtain a more comprehensive understanding of the characteristics of customary law related to elections. Research findings show that the characteristics of customary law have a significant influence on guaranteeing rights in holding elections for indigenous communities. To ensure democratic and inclusive elections, integration between customary legal systems and national law needs to be considered. This research provides valuable insights for policymakers, practitioners, and the general public in promoting fair and sustainable elections in indigenous communities.

Keywords: Government, Customs, Law

1 Introduction

General elections are an important element of a democratic system that serves as a means for citizens to elect their representatives in government. Fair, transparent, and inclusive election processes are essential foundations for ensuring accurate representation and healthy public participation. However, in some areas, particularly in indigenous communities, the implementation of general elections is often influenced by unique factors related to customary law systems.[1]

Customary law systems play a significant role in governing the lives of indigenous communities. Customary law is a set of norms, rules, and practices that have evolved over generations within indigenous societies, often based on their cultural values and traditions. Characteristics of customary law can include strong community participation mechanisms, different leadership structures, and unique decision-making processes. Therefore, it is important to understand the impact of customary law characteristics on the guarantee of rights in conducting general elections in indigenous communities.

This research aims to investigate the influence of customary law characteristics on the guarantee of rights in conducting general elections in indigenous communities. Through a qualitative approach, this study will conduct case studies in several indigenous communities that have strong customary law systems. By understanding the interaction between customary law systems and the implementation of general elections, we can gain deeper insights into how customary law characteristics affect the election process and political participation within indigenous communities.

General elections in indigenous communities present unique challenges and opportunities. One potential challenge is the conflict between customary law and national law. Indigenous communities often face dilemmas in integrating their customary law aspects with national legal frameworks that may have different requirements and procedures. This can create tensions in conducting general elections that align with traditions and customary values while still meeting modern democratic standards.[2]

Furthermore, gender gaps can also be a challenge in the context of general elections in indigenous communities. Traditional norms and social norms within customary law may restrict women's political participation and provide unequal rights. Therefore, it is important to pay attention to the protection of women's rights and promote gender equality in the election processes in indigenous communities. However, the characteristics of customary law can also provide valuable opportunities in addressing the challenges of general elections in indigenous communities. Strong community participation mechanisms and broader involvement in decision-making can provide opportunities for indigenous people to have a voice in the election process. Decisions made through customary law mechanisms may reflect inclusive, participatory, and consensus-based democratic values.

Additionally, the cultural wealth and traditions within customary law can also serve as a source of strength and identity for indigenous communities in conducting general elections. Indigenous communities often have traditional practices that uphold justice, equality, and togetherness. These values can form a strong foundation in ensuring the fair implementation of elections and preventing voter rights violations.

In the context of this research, it is also important to acknowledge that each indigenous community has unique contexts and characteristics of customary law. Therefore, this research will involve multiple case studies to analyze variations in customary law characteristics and their impact on the implementation of general elections in different indigenous communities. Thus, this research will provide broader and more representative insights into the relationship between customary law and the guarantee of rights in conducting general elections in various indigenous community contexts.

This research is expected to contribute to our understanding of the importance of recognizing and understanding customary law systems in the context of general elections. The findings of this research are expected to serve as a basis for formulating better policies and best practices in promoting inclusive, participatory general elections that align with indigenous communities' cultural values and traditions. To achieve these goals, this research will employ a qualitative approach involving in-depth interviews with indigenous leaders, community figures, and members of the indigenous community. Analysis of customary law documents and historical records will also be conducted to gain a more comprehensive understanding of the characteristics of customary law related to general elections. Through this research, we can develop deeper insights into how the characteristics of customary law influence the guarantee of rights in conducting general elections in indigenous communities. Additionally, this research can provide a foundation for future research and policy efforts to enhance more inclusive, fair election practices that align with the cultural values and traditions of indigenous communities.[3]

2. RESEARCH METHOD

The research method used in this study is a qualitative approach, conducting case studies in several indigenous communities that have strong customary law systems. The qualitative approach is used because this research aims to understand and analyze the influence of customary law characteristics on the guarantee of rights in conducting general elections in indigenous communities. This method allows researchers to gain an in-depth understanding of the context, processes, and experiences related to the research topic.

Here are the stages of the research method that will be used:

1. Selection of Indigenous Communities:
 - Select several indigenous communities that have strong customary law systems relevant to general elections.
2. Data Collection:
 - In-depth Interviews: Conduct in-depth interviews with indigenous leaders, community figures, and members of the indigenous community. These interviews aim to understand their

perspectives, experiences, and knowledge regarding customary law systems and their influence on general elections.

- Document Analysis: Analyze relevant customary law documents and historical records to gain a more comprehensive understanding of the characteristics of customary law related to general elections.

3. Data Analysis:

- Data from interviews and document analysis will be analyzed thematically. Emerging findings will be categorized and linked to customary law characteristics that influence the guarantee of rights in conducting general elections in indigenous communities.

4. Interpretation and Conclusion:

- Findings from data analysis will be interpreted to provide a deeper understanding of the influence of customary law characteristics on general elections in indigenous communities.
- Conclusions will be drawn based on research findings and can be used to provide policy recommendations or best practices in promoting inclusive general elections that align with the cultural values and traditions of indigenous communities.

When conducting this research, it is important to consider research ethics, such as respecting the will and customs of the indigenous communities, as well as obtaining permission and consent from relevant parties before conducting the research. This qualitative research method is expected to provide an in-depth understanding of the influence of customary law characteristics on the guarantee of rights in conducting general elections in indigenous communities.

3. FINDINGS AND DISCUSSION

In this discussion, we will explore the research findings and data analysis to understand the influence of customary law characteristics on the guarantee of

rights in conducting general elections in indigenous communities. Using a qualitative approach, this study employs in-depth interviews and document analysis to gain a deeper understanding of the interaction between customary law and the implementation of general elections.[4]

a. Strong Community Participation Mechanisms

The main finding of this research is that customary law characteristics often include strong community participation mechanisms in the implementation of general elections in indigenous communities. Customary law systems encourage broader involvement in decision-making and provide indigenous people with opportunities to have a voice in the election process. These participation mechanisms can include community meetings, customary consultations, or forums involving all community members in decision-making related to elections. Such wide participation can enhance the legitimacy of elections and provide opportunities for all community members to participate in political decision making.

One of the key findings in this research is the presence of strong community participation mechanisms in the implementation of general elections in indigenous communities. Customary law systems often encourage broader involvement of indigenous people in decision-making related to elections. These participation mechanisms can vary, including community meetings, customary consultations, or forums involving all community members in political decision making. These strong participation mechanisms have several benefits. First, they allow all members of the indigenous community to actively participate in political decision-making, ensuring broader and more inclusive representation. In the context of general elections, strong participation can enhance the legitimacy of the elections and create a better understanding of the needs and aspirations of the community.

Second, these participation mechanisms can also reflect the cultural values and traditions of the indigenous community. Decision-making through deliberation and consensus, is an example of mechanisms commonly used in customary law. Values such as justice, equality, and togetherness that are associated with customary law can serve as a strong foundation in

ensuring fair and participatory elections.

However, it is important to acknowledge that not all members of the indigenous community may be able or willing to actively participate in the election process. Factors such as limited access, differing interests, or diverse perspectives can influence the level of participation. Therefore, it is important to create an inclusive environment and encourage active participation from all members of the indigenous community, while respecting individual differences and needs.

To ensure broad and inclusive participation, efforts for education and community empowerment are necessary. Increasing understanding of the importance of political participation, providing access to relevant information, and building community capacity can help strengthen the strong community participation mechanisms in the implementation of general elections in indigenous communities.

Overall, the strong community participation mechanisms within the customary law of indigenous communities provide opportunities for indigenous people to have a voice in political decision-making, enhance inclusive representation, and reflect the cultural values and traditions of the indigenous community. In general elections, these mechanisms can ensure fair, participatory elections that align with the needs and aspirations of indigenous communities.

b. Different Leadership Structures

The characteristics of customary law in indigenous communities often reflect different leadership structures from conventional political systems. In some cases, customary leadership can play a significant role in the implementation of general elections. Indigenous leaders can serve as guardians and overseers of the election process and act as mediators in resolving disputes that may arise during the process. The structure of customary leadership can provide stability and credibility in the implementation of elections while maintaining local wisdom and cultural identity in the political process. [5]

The characteristics of customary law in indigenous communities often reflect different leadership structures from conventional political systems.

In some cases, customary leadership can play a significant role in the implementation of general elections in indigenous communities. In customary law, indigenous leaders have the authority and responsibility to lead and manage the affairs of the indigenous community. They are often respected as leaders who possess wisdom, knowledge, and expertise in carrying out their duties. Customary leadership can be hereditary or selected by community members through traditional processes that have been established.

In the context of general elections, indigenous leaders can play several important roles. First, they can act as guardians and overseers of the election process. In this capacity, they ensure that the election process is conducted fairly, transparently, and in accordance with applicable customary law. They are responsible for overseeing vote counting, handling disputes, and ensuring the overall integrity of the elections. Additionally, indigenous leaders can serve as mediators in resolving disputes that may arise during the election process. They bring their wisdom and authority to help settle disputes in a manner that respects customs and community interests. This role is crucial in maintaining stability and harmony within the indigenous community during general elections.

The structure of customary leadership also holds important values for the indigenous community. It can uphold local wisdom, traditions, and cultural identity within the political process. Indigenous leaders often have a deep understanding of the community's cultural values and traditions, and they utilize this knowledge to guide decision-making and policies that reflect the interests and aspirations of the community as a whole. The structure of customary leadership can also provide stability and credibility in the implementation of general elections. Within the indigenous community, indigenous leaders are often respected and recognized by community members. The presence of indigenous leaders can instill confidence and trust among community members regarding the integrity and validity of the elections. [6]

c. Conflict between Customary Law and National Law

This research also indicates the existence of conflicts between customary law and national law in the context of general elections in indigenous

communities. Indigenous communities often face dilemmas in integrating their customary law aspects with the national legal framework, which may have different requirements and procedures. This can create tension in conducting general elections that align with traditions and customary values while still meeting modern democratic standards. Therefore, it is important to seek harmony between customary law and national law to ensure fair elections that cater to the needs of indigenous communities.

The research reveals conflicts between customary law and national law in the context of general elections in indigenous communities. Indigenous communities often face dilemmas in integrating their customary law aspects with the national legal framework, which may have different requirements and procedures. These conflicts can create tension in conducting general elections that align with traditions and customary values while still meeting modern democratic standards. One key issue is the divergence in requirements and procedures between customary law and national law. Customary law is often based on long-established norms and traditions that have evolved within the indigenous community, while national law may establish more general rules that apply to the entire country or region. These differences can create barriers in ensuring compliance with national legal requirements while preserving the integrity and uniqueness of customary law.

Furthermore, the electoral procedures regulated by national law may not fully align with indigenous customary traditions and values. For instance, national law may require candidate or political party registration that is not in line with the customary practices of a particular indigenous community. This can create a dilemma for indigenous communities in choosing between complying with national law or preserving their customary practices and traditions. It is important to seek harmony between customary law and national law in indigenous community elections as a crucial step in ensuring fair elections that align with the needs and aspirations of the community. One approach that can be taken is to recognize and respect the existence of customary law as an integral part of the national legal system. This can be done by encouraging dialogue among stakeholders, including the

government, indigenous communities, and other relevant actors, to reach agreements that acknowledge and respect indigenous values within the context of general elections. Additionally, it is important to enhance understanding and awareness of customary law among the public, including election organizers and state officials. Education and training can provide better understanding of the importance of customary law and how to integrate it with national law in the context of general elections.

d. Protection of Women's Rights

In the context of elections in indigenous communities, it is important to pay attention to cases. In this discussion, we will explore research findings and data analysis to understand the influence of the characteristics of customary law on the guarantee of rights in holding elections in indigenous communities. Through a qualitative approach, this study uses in-depth interviews and document analysis to gain a deeper understanding of the interaction between customary law and the conduct of general elections. Let's discuss the main findings that emerged from this study.

This study found that the characteristics of customary law in customary communities often reflect a strong mechanism of community participation in the implementation of general elections. This mechanism involves the active participation of all members of the indigenous community in making decisions related to elections. This could include community meetings, adat meetings, or other participatory forums. This participation mechanism provides an opportunity for all members of the community to play a role in the electoral process and ensures broader and inclusive representation.

This research found that there is a conflict between customary law and national law in the context of general elections in indigenous communities. Differences in requirements and procedures between customary law and national law can create tensions in running elections that adhere to traditional traditions and customary values while meeting modern democratic standards. It is important to seek harmony between customary laws and national laws to ensure elections are fair and according to the needs of indigenous communities.

e. Strong Community Participation Mechanism

The main finding in this study is that the characteristics of customary law often have strong community participation mechanisms in the implementation of general elections in indigenous communities. The customary law system encourages wider involvement in decision-making and gives indigenous peoples the opportunity to have a voice in the electoral process. This participation mechanism can include community meetings, customary meetings, or forums that involve all members of the community in making decisions related to elections. This broad participation can increase the legitimacy of elections and provide opportunities for all members of the community to participate in political decision-making.

f. This research also shows that the characteristics of customary law often reflect a leadership structure that is different from conventional political systems. In some cases, traditional leaders have an important role in holding general elections in indigenous communities. They can act as guardians and supervisors of election implementation as well as mediators in resolving disputes that may arise. This customary leadership structure provides stability, credibility, and maintains local wisdom and cultural identity in the political process. The characteristics of customary law in indigenous communities often reflect a leadership structure that is different from conventional political systems. In some cases, adat leadership may play an important role in the conduct of elections. Traditional leaders can act as guardians and supervisors of the implementation of elections as well as being a mediator in resolving disputes that may arise during the process. This customary leadership structure can provide stability and credibility in the implementation of elections, as well as maintain local wisdom and cultural identity in the political process.

g. Different Leadership Structures

This research also shows that there is a conflict between customary law and national law in the context of general elections in indigenous communities. Indigenous communities often face the dilemma of integrating aspects of their customary law into national legal frameworks which may have

different requirements and procedures. This can create tension in running elections that adhere to tradition and customary values while meeting modern democratic standards. Therefore, it is important to seek harmony between customary laws and national laws to ensure elections are fair and follow the needs of indigenous communities.

This research also highlights the importance of protecting women's rights in general elections in indigenous communities. Traditions and social norms in customary law can limit women's political participation and provide unequal rights. Therefore, efforts should be made to ensure gender equality and promote women's political participation in elections in indigenous communities. Measures such as raising awareness, education, and empowering women can help achieve this goal.

4. CONCLUSION

In this research, several important findings have been revealed regarding the influence of customary law characteristics on the guarantee of holding elections in indigenous communities. These findings include strong community participation mechanisms, different leadership structures, conflicts between customary law and national law, and the protection of women's rights. Firstly, strong community participation mechanisms in customary law allow all members of the indigenous community to participate in decision-making processes related to elections. This participation provides an opportunity for broader and more inclusive representation in the electoral process, which is crucial for ensuring fairness and legitimacy. Secondly, the characteristics of customary law often reflect different leadership structures compared to conventional political systems. Indigenous leaders play essential roles in the implementation of elections within indigenous communities, serving as guardians, overseers, and mediators. The customary leadership structure provides stability, credibility, and the preservation of local wisdom and cultural identity in the political process.

However, conflicts between customary law and national law have also been identified. Differences in requirements and procedures between the two systems

can create tensions in conducting elections that respect customary traditions while adhering to modern democratic standards. Therefore, it is important to seek harmonization between customary law and national law to ensure fair elections that meet the needs of indigenous communities. Lastly, the protection of women's rights is a significant concern in elections within indigenous communities. Customary traditions and social norms may limit women's political participation and grant them unequal rights. Therefore, efforts must be made to ensure gender equality and promote women's political participation in indigenous community elections. This can be achieved through raising awareness, education, and empowering women to achieve these goals. In conclusion, this research has provided a deeper understanding of the influence of customary law characteristics on the guarantee of holding elections in indigenous communities. These findings can serve as a basis for formulating better policies and best practices in promoting inclusive, fair, and culturally aligned elections within indigenous communities. Collaborative efforts among governments, indigenous communities, and other stakeholders are crucial in achieving these goals.

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