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## **PRESERVATION OF INDIGENOUS WOMEN'S TRADITIONS AND BEHAVIOR WITHIN THE FRAMEWORK OF CULTURAL RELATIVISM IN INDIGENOUS COMMUNITIES (A STUDY OF EMPIRICAL APPROACHES IN LEGAL ANTHROPOLOGY)**

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### **ABSTRACT**

#### **KEYWORDS**

Safeguarding the Traditions and Behavior of Indigenous Women, Cultural Relativism, Indigenous Peoples, Empirical Approaches to Legal Anthropology

Customs and values within Indigenous communities form the basis of customary behavior in understanding human conduct, particularly in the context of Balinese indigenous women's behavior as guardians of tradition in an empirical approach to legal anthropology. This means that the legal norms used to observe the behaviors of Balinese indigenous women as custodians of indigenous traditions within the frame of cultural relativism represent legal realities apparent in legal situations or any legal events that genuinely occur within the indigenous community, as manifestations of the indigenous women's behaviors in preserving sacred traditions. This is based on an empirical approach to Legal Anthropology. Whether acknowledged or not by the indigenous community, the empirical approach to cultural relativism fundamentally holds a social and cultural value system that can serve as the social capital of the nation. The community's attitudes and behaviors rooted in tradition are guided by values believed to be true, exemplifying the traditional values and cultures passed down through generations and perceived as instruments for social control and religious values that guide human life, manifesting the preservation of local cultural relativism among the local indigenous community. Indigenous communities in these regions become the focal research site with the hope of safeguarding traditional values as a reinforcement of customary practices, the culture, and the traditions of the local indigenous community, which embody the manifestation of protected local wisdom governed by regional customary laws. The methodological approach utilized involves the Empirical Approach of Legal Anthropology linked with the theory of cultural relativism, leading to the conclusion that the approach involves field observations, interviews with research informants, and analyzing primary, secondary, and tertiary data sources through the lens of cultural relativism concerning the behaviors of indigenous women based on an empirical approach within the context of indigenous customary law.

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#### **INTRODUCTION**

The existence of indigenous women in maintaining and preserving the existence of indigenous peoples has not been able to penetrate the state's consciousness to fully recognize and protect the rights of indigenous peoples, resulting in a development paradigm leading to the destruction of indigenous peoples and their customary territories, because the population of indigenous peoples is decreasing every year even though the state says the country is multicultural but does not recognize the existence of indigenous peoples.

For example the Punan Tubu indigenous people in Kalimantan, to avoid getting sick/transmitted, residents are taught to live separately in small groups/nuclear families. Another example, the Topo Uma indigenous people in Central Sulawesi have local knowledge

about infectious diseases, each family has a polumpua house such as a garden house for self-isolation and gardening (Wiratraman, 2010).

For this reason, indigenous peoples have proven to be able to maintain the balance of nature, making forests or customary territories part of the cosmos in synergy with maintained spirituality to maintain the traditions and behaviors of indigenous women that can provide a balance of nature and humans, especially the behavior of indigenous women who can understand the values of indigenous peoples rooted in folk culture as the incarnation of the feelings of indigenous peoples' lives in globalization Implications for changes in picker patterns, behaviors, lifestyles due to the growth of a culture of individualism, consumerism, egoism and others that are contrary to cultural relativism is an indigenous culture that can be introduced to various institutions in the care, recognition and protection of indigenous peoples (Benda-Beckmann, 2009; Bowen, 2003; von Benda-Beckmann, 2009). So as to minimize foreign cultural deviations that enter as a filter to reject foreign cultures, traditions, customs that are contrary to the values of local traditions and Pancasila (Arfiansyah, 2018).

Thus, the uniqueness of indigenous peoples' cultures, traditions and customs based on Pancasila and the 1945 Constitution can have implications for the mindset, behavior, and personal character of each as a tradition that lives in local indigenous communities.

Research problem in this study is 1. How does the theory of cultural relativism affect the preservation of indigenous traditions and women? 2. How is the safeguard, recognition and legal protection of indigenous peoples if there is a legal case?

## RESEARCH METHOD

This research uses the Empirical Approach of Legal Anthropology. The Empirical Approach to Legal Anthropology is an approach that uses informants/narrations of indigenous figures to be interviewed in fact, in accordance with legal corridors with legal events and realities that occur in indigenous peoples in local customary territories. For example, in reality, Balinese indigenous women with a patriarchal system make Balinese indigenous women have no power and women's movements are restricted (Sakina, 2017). In religious ritual activities the position of women is below men (strong dominance of men). It can be concluded that this research can provide indigenous peoples awareness of the position and role of indigenous women in the culture, traditions and customs of indigenous peoples in local customary territories.

## RESULTS AND DISCUSSION

### 1. The Influence of Cultural Relativism Theory on the Preservation of Indigenous Peoples' Traditions and Women

The diversity of cultures, traditions, customs is reflected in the diversity of the people of the archipelago who have local values and wisdom to maintain harmony in values and wisdom in various kinds of traditions and cultures, so as not to occur and prevent the loss of culture and customary traditions that they have had since generations from their ancestors that need to be preserved, developed based on preservation, development of customary law values in local indigenous peoples to support the lives of indigenous peoples. Here arise cultural values good and bad a value that grows in life together. which has a major influence on changes in the behavior of indigenous women in the structure of society that affect the development of society in the future (Nanang Martono, 2011: 1).

Cultural values related to cultural relativism are the heritage of ancestors who are believed to be true as a benchmark in acting and behaving customary law communities which

until now these values are still maintained and some have been lost, especially indigenous peoples in local customary areas, and the existence of cultural values and Balinese indigenous women in maintaining traditions can provide a legacy of change for the better for the survival of the community custom forward. Value is defined as *nelai* for humans is the foundation or motivation in all their behavior or actions (Melander, Alfredsson, et al., 2004; Melander, Alredson, et al., 2004).

The cornerstone value in acting is community behavior, reflecting values that are believed to bring goodness and welfare to the life of a customary law community. The values of indigenous peoples have both positive and negative impacts.

- a. Positive values: the value of togetherness (*gotong royong* / *Masohi* from Central Maluku), building houses of worship both mosques / churches), not distinguishing religion, ethnicity and diversity
- b. Negative value: the use of regional languages for the younger generation began to disappear due to the development of technology and information

Based on the above, it can be concluded that positive customary law values certainly need to be preserved and even need to be developed in the common life of indigenous peoples and The role of the government in the preservation, development of traditional values of the Ubud community, Gianyar Regency, Bali Province is a very big thing in supporting it through assistance from indigenous community empowerment programs, making local regulations that accommodate the aspirations of indigenous peoples Local (Arizona et al., 2017).

Indigenous women also have a big role in economic resilience, play a social role, and preserve the natural environment. The strength of indigenous women as a diverse and national identity as conveyed by Minister Bintang when conveying her aspirations to the Indigenous Women's Alliance of the Archipelago Indigenous Peoples Alliance of the Archipelago (AMAN) is very important to be realized so that indigenous women can be protected their rights remain safe, prosperous and improve the quality of life of indigenous women in each indigenous territory (Heroepoetri et al., 2016). So to accommodate harmony in the lives of indigenous peoples, it is necessary to synergize cultural relativism with the care of indigenous women towards tradition through a complete understanding of indigenous peoples with education or legal socialization related to the passage of the MHA Bill into the MHA Law, affirmative action rehabilitation, collective rights of indigenous women and open equal opportunities for indigenous women to contribute more to development, management and protection of indigenous territories (Heroepoetri et al., 2016).

It can be concluded that indigenous women are indigenous communities that are inseparable from the historical, social and cultural ties of their families, tribes and nations, indigenous women are part of a cultural identity that must be maintained, cared for, valued and respected customarily and constitutionally by the state.

## 2. Legal Protection and Legal Settlement of Indigenous Women's Legal Cases

Many legal cases occur in indigenous communities and of course we can resolve, protect if there is a dispute against indigenous women who are very vulnerable to occur in local indigenous communities. The concept of *adat* is abstract as we take Balinese custom. Indigenous women are small communities in villages, customary territories that are abstract to local, flexible and dynamic practices as the basis of social construction within the same indigenous ethnicity (Ibrahim & AR, 2010). Naturally, customs change according to changes in the environment outside the local customary self and especially indigenous women, consistent changes over time depending on the development of the community and people's understanding of their lives, religion and environment.

Concrete examples of cases that occur in indigenous peoples can be described in the framework of legal arguments in logical reasoning which illustrates that the Government must immediately realize recognize, respect and protect indigenous women, protect the environment and forests, stop women's violence under the pretext of investment and land exploitation and the Government should also involve indigenous women in every decision making. to traditions, customary environments with natural resources in local customary territories, but the Government does not do that.

For this reason, if there is a dispute in indigenous peoples, especially indigenous women, it is submitted to Customary Institutions to provide an understanding of the process of resolving legal cases that occur by providing fair solutions to be implemented so that in the future they can be resolved as well as possible not contrary to applicable laws in the community. As is the case with the Tana Samawa customary institution in Sumbawa which is recognized de facto from their outside communities at various levels of recognition, both companies, the central government and the local government of Sumbawa as the only customary institutions. And also natural resources-based conflicts that are not beneficial for indigenous peoples without compensation and guarantees of the right of future generations to enjoy the environment and as well as the current generation and have the potential to eliminate the roots of indigenous peoples' identity in maintaining traditions, caring, maintaining, managing and preserving indigenous environments.

The above has an impact on the existence of indigenous women experiencing a double burden if there is a conflict over natural resources, including women playing an extra role to meet the family's economic and food needs, experiencing a lack of security due to threats, stigma, harassment, expulsion, persecution and criminalization, exploitation due to weak access to participation in decision-making in indigenous communities. The government considered that it was not necessary to involve indigenous women in policy-making consultations in resolving natural resource conflicts, because it felt that there were no regulations requiring it. In fact, indigenous women as guardians of indigenous traditions and environments cannot be separated as agents of peace, namely maintaining silaturahmi between indigenous people and mediating peace to conflicting parties, so that cohesion and peace in indigenous peoples can be maintained properly.

Thus, the paradigm of ancestral religion is also an integral part of maintaining tradition in strengthening the values of indigenous traditions, indigenous peoples see that humans see nature as a subject and not an object to be exploited because both require, recognize indigenous peoples and legal practices that occur in indigenous peoples, their religious practices and recognize the existence of natural rights that surround the environment of indigenous peoples.

## CONCLUSION

The harmony of culture, customs and traditions as the embodiment of the basic values of indigenous women's behavior in indigenous peoples is very relevant to be implemented in state life as a safeguard, recognition and protection of local wisdom, safeguarding indigenous traditions and the role of indigenous women in cultural relativism. The theory of cultural relativism synergizes with the empirical approach of legal anthropology, it will be concluded that there is a synergy relationship between the two, so that it can be understood and analyzed here the relationship between the two can provide preservation and strengthening of indigenous peoples' traditional values within the framework of cultural relativism in the cosmological life of nature and humans as community legitimacy for the existence of a custom, tradition and culture.

Legal protection for indigenous women affected by legal cases, as a way to be free from legal bondage, indigenous women need to be protected and guarded from the exploitation practices of modern society that are different cultures (Mahmuda, 2015). For example, Balu women's rights, Balinese culture places the position of women marginalized and there is a reluctance of women to move because they are limited by values inherent in society such as religious values and culture of indigenous Balinese people (Ratna Budiati, 2007: 2). Indigenous women have specific rights identified related to conservation, agriculture, livelihoods and the state should respect and protect the rights of indigenous women in various indigenous territories. Concrete examples of how mama Aleta carries out her weaving activities which are also a symbol of indigenous peoples' strategies in fighting marble mining in East Nusa Tenggara, and the role of Samin indigenous women with Kartini Kendeng in her struggle against lime miners for cement factories in the Kendeng Mountains, Another example of Vandana Shiva about local seed conservation against agrochemical conglomerates. This illustrates that indigenous women have a cultural relativism related to indigenous knowledge systems and new spirituality that are part of the reality of Indigenous Women's daily lives.

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Devotion - Journal of Research and Community Service



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