

Reviewing Rules, Roles, and Power in Indigenous Communities from a Feminist Legal Studies Perspective

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Abstract

In the discussions of Indigenous or customary communities, Indigenous women are rarely mentioned. Research on Indigenous communities using a feminist perspective is rare. Some advocacy products also fail to mention Indigenous women. Scholarly works on Indigenous women often portray them as a single entity. This article is not the result of field research on a group of Indigenous communities nor does it specifically involve Indigenous women. Instead, this article is based on literature research of research articles, advocacy documents, court decisions, and regulations related to Indigenous communities. The focus of this article is on how Indigenous women are recognised by the state, specifically in the legal realm. This article is intended as a conceptual piece that narrates the impact of women's exclusion from decision-making processes in the context of Indigenous communities and strategies for changing these practices.

Keywords: feminist legal studies, Indigenous women, public participation, structural violences

Introduction

In 2025, discussions surrounding the Indigenous Peoples Bill regained prominence in the Indonesian media. On 8 December 2025, the Indonesian House of Representatives (DPR RI) decided to include the Bill on the Protection and Recognition of Indigenous Peoples in the National Legislation Programme (Prolegnas) for 2025–26 (Muazam 2026). Advocacy for the Bill, which had been ongoing since 2003, stalled for some time before gaining momentum again in 2010 (HuMa 2022). However, the Bill was only included in the Prolegnas for the 2025–2026 period. Its passage is supported by several civil society organisations that have joined the Coalition to Monitor the Indigenous Peoples Bill (Muazam 2026).

The HuMa Association notes that a number of court rulings form the basis for drafting and advocating the Indigenous Peoples Bill. These include Constitutional Court Rulings Nos. 10/PUU-I/2003, 31/PUU-V/2007, 35/PUU-X/2012, and 95/PUU-XII/2014. Briefly, Constitutional Court Decision No. 10/PUU-I/2003 was the first to mention and explain the constitutional rights of Indigenous Peoples, as well as affirming the

state's recognition of their existence (HuMa, 2022). The reasoning section of the decision states:

"The provisions of Article 18B(2) of the 1945 Constitution are not intended to divide the state's territory; rather, they affirm the state's obligation to recognise and respect the unity of customary law communities and their traditional rights. These rights remain in force and are in accordance with societal developments and the principles of the Unitary State of the Republic of Indonesia..."

Constitutional Court Ruling No. 31/PUU-V/2007 outlines the three defining characteristics of Indigenous communities. As set out in point 3.15.1 of the 'Considerations' section of the ruling, an Indigenous community is defined as one that is bound by three aspects. Firstly, they are bound genealogically, meaning they have ties formed through blood relations. Secondly, these ties may also be formed through functional relationships based on shared interests and specific functions. It is these shared interests that unite the customary law community in question. Thirdly, a customary law community may also be united territorially, as a consequence of having lived together in a single territory for generations, giving rise to

customary land rights, including the right to utilise land, water, and forests.

The Constitutional Court's ruling referring to these characteristics of Indigenous communities is in line with Ariella D'Andrea's statement that customary law communities possess both subjective and objective characteristics. The subjective characteristics involve a sense of obligation to comply. There is an emotional and psychological attachment to the territory of residence, customs, customary law, and the community itself. The objective characteristics consist of two elements: firstly, customary law functions as a guide to life and a means of social control, and secondly, these regulations are implemented, upheld, preserved, and passed down from generation to generation (D'Andrea 2012).

In addition to the Constitutional Court's ruling on the characteristics of Indigenous communities, the Court issued another significant ruling in 2012 for the advocacy of Indigenous communities. Constitutional Court Ruling No. 35/PUU-X/2012, which reviewed Law No. 41 of 1999 on Forestry, prompted the inclusion of this law in the 2024-2029 Prolegnas for revision. The 2012 ruling recognises customary forests. It states that the state's control and utilisation of land, water, and natural resources must take into account pre-existing rights, including individual and collective rights under customary law (*hak ulayat*), Indigenous Peoples' rights, and other constitutional rights. These include the right to access and traverse such areas, as well as the right to a healthy environment. Consequently, the Panel of Judges concluded that, as a result of this recognition, it is important for the state to acknowledge the existence of customary forests, which must be distinguished from state forests. This means that the government must restore and recognise customary forests.

Furthermore, another significant Constitutional Court ruling concerning the recognition of Indigenous communities in Indonesia was Decision No. 95/PUU-XII/2014, which reviewed Law No. 18 of 2013. This decision specifically amended Articles 50(3)(e) and (i), thereby removing the potential criminalisation of Indigenous communities who live in forests and derive their livelihood from forest resources. This encompasses activities such as felling trees, harvesting, gathering forest products, and grazing livestock in forest areas. However, this removal of potential criminalisation only

applies to Indigenous Peoples who have lived in the forest for generations, and not to commercial activities.

In addition to the Constitutional Court's ruling, the recognition of Indigenous Peoples is also reflected in Law No. 1 of 2023 on the New Criminal Code, which includes a provision on 'living law' within communities. Specifically, Articles 2(1), (2) and (3) provide for the following: 1) Paragraph 1: The provisions referred to in Article 1(1) do not preclude the application of living law within a community that deems an individual liable for criminal punishment, even if the act in question is not addressed in this Law; 2) Paragraph 2: The customary law of the community referred to in Paragraph 1 applies in areas where such law is in force, provided it is not addressed in this Law and is consistent with the values embodied in Pancasila, the 1945 Constitution of the Republic of Indonesia, human rights, and the general principles of law recognised by the international community; 3) Paragraph 3: The procedures and criteria for establishing customary law in society shall be regulated by a Government Regulation.

Paragraph (1) refers to a person's potential prosecution under customary law, despite such rules not constituting a criminal offence as defined in the New Criminal Code. Meanwhile, Paragraph (2) refers to the limitations or conditions of living law that may serve as a basis for prosecuting an act referred to in Paragraph (1) of Article 2. The procedures and criteria for determining what constitutes the 'living law' within a community are regulated by Government Regulation. This 'living law' may refer to a number of customs and/or customary rules.

Both the New Criminal Code and the aforementioned Constitutional Court rulings demonstrate the state's recognition of customary law communities and Indigenous Peoples and their way of life. However, Indigenous women, who are part of these communities, are not yet recognised in many legal instruments and public advocacy materials.

Recognition of Indigenous women and their struggle to defend the rights of Indigenous communities is largely confined to academic works. The number of research findings on Indigenous women within the academic sphere is comparable to that of research on Indigenous communities as a whole. While research on Indigenous women has been conducted from various

academic perspectives, little has explored the presence and challenges faced by Indigenous women from a feminist perspective or from their own viewpoint. This is particularly true when Indigenous women are confronted with legal norms, whether internal customary laws or laws constructed by 'external' parties - in this case, the state. The strategies developed by Indigenous women have also not been discussed enough in the Indonesian academic context. One such discussion is provided by Sulistyowati Irianto, whose work details the challenges that Toba Batak women face with regard to inheritance law, particularly under customary law. In her work, Irianto also reveals her informants' experiences of violence, including physical and psychological abuse, as well as neglect by their extended families (Irianto 2012).

In addition to Irianto, Zuhraeni (2017) also describes the lives of women in the *Sebatin* Indigenous community in Lampung in her article. The patriarchal values they face in everyday life result in *Sebatin* women having limited access to basic rights and even experiencing violence. However, rather than addressing legal issues, her work focuses on describing the daily challenges that *Sebatin* women face due to gender constructions and patriarchal values (Zuhraeni 2017).

Masthuriyah Sa'dan's article describes similar experiences to those narrated by Zuhraeni, but against a different social backdrop and within a different contextual framework. Her work highlights the experiences of Madurese girls who were forced into marriage as children in the name of custom and religion (Sa'dan 2015).

Sieder and Barrera (2017) discuss the experiences of Indigenous women outside Indonesian society. They focus on Indigenous women in the Andes Mountains, who struggle to claim leadership roles or participate in political processes in their regions. Sieder also writes about Indigenous Mexican women fighting for their political rights, who must contend with various state policies and even acts of violence (Sieder 2016). Sieder's writings recount the experiences of Indigenous women advocating for their rights, the challenges they face, and the strategies they use when confronted with values constructed by both internal community authority figures and the state.

Muna Ndulo (2011) conducted research on Indigenous women in South Africa. She found that the

courts had long adopted a passive stance - remaining silent, turning a blind eye, and acquiescing - towards a number of customary practices and provisions that were discriminatory towards women. However, Ndulo also found that, in a number of the court rulings she analysed, judges in the High Court and the Supreme Court recognised and incorporated principles of human rights and/or women's rights into their judgements. The judges stated that discriminatory principles of customary law should no longer apply as they are unconstitutional, invalid, and unacceptable in an evolving society (Ndulo 2011).

The author of this paper has not conducted intensive, time-limited field research focusing specifically on a particular group of Indigenous Peoples or Indigenous women. Instead, it is based on a review of literature and advocacy outputs, such as relevant rulings and regulations, concerning Indigenous Peoples. The paper focuses on discussing how Indigenous women are recognised by the state, particularly within the legal sphere.

The paper is intended as a conceptual article, describing the position of Indigenous women within existing regulations in the context of customary law within their communities and state law. The paper also seeks to reveal the role of Indigenous women in advocacy activities. Furthermore, it attempts to analyse how Indigenous women can access power in both internal and external contexts, for instance when carrying out advocacy activities.

Gender construction is one of the main potential sources of conflict within Indigenous communities, which have their own regulatory systems. It is ironic that the issue of Indigenous women is not specifically addressed by legislative or judicial bodies during the law-making or ruling processes, respectively. Issues concerning Indigenous women appear to be subsumed within the broader issues of state recognition of customary law communities and communities' access to resources. However, Indigenous women themselves are not specifically addressed. Nevertheless, it is undeniable that Indigenous women play a role in advocating for a range of Indigenous peoples' rights in order to restore and/or protect their communities' access to resources.

An analysis of legal texts, such as draft legislation (RUU) or Constitutional Court rulings, reveals that

Indigenous communities are generally viewed very broadly. There is no narrative regarding the experiences of men and women within these communities, which are in fact very different. Nor is there any discussion of how class and gender distinctions within Indigenous communities can lead to discriminatory practices and even violence.

On paper, or at the level of 'law in the book', everyone appears equal. However, in practice, or 'law in society' (Macaulay, Friedman & Stookey 1995), the narrative can shift according to the community's interpretation of the law, or according to the 'discretion' of those in power and/or law enforcement officials. The law may well disadvantage certain groups - in this case, indigenous women. When legal texts are analysed through a feminist lens, disparities become apparent. At the implementation level, experiences of the application of the law will also differ.

Therefore, it is important to conduct an analysis from a feminist legal perspective to highlight the experiences of Indigenous women in various Indigenous community contexts when they are confronted with state law (which does not specifically recognise their existence), and their own customary law, which is shaped by patriarchal biases.

Research Methodology

This paper uses a literature review of a number of articles and books on research into Indigenous women, both in Indonesia and other countries (Ivankova & Creswell 2009). The paper also draws on research by Estrada-Tanck (2018) on women in Indigenous communities in Mexico and by Griffith (1984) on Indigenous women in Botswana. Furthermore, materials from reports by organisations advocating specifically for Indigenous women are utilised, including reports from Jurnal Perempuan, HuMa, and PEREMPUAN AMAN. Keywords used to search for the cited literature are: Indigenous women, Indigenous communities, customary law communities, advocacy for vulnerable groups, and customary law.

In addition to referencing the results of searches for academic articles and data from organisations advocating for Indigenous women, the paper also cites annotations of court rulings, legislation, and academic papers. These annotations are used to illustrate the

advocacy process regarding the rights of Indigenous communities, particularly Indigenous women.

A small amount of field research data was obtained from focus group discussions attended by female religious leaders, pastors, local Indigenous women, and representatives of service-providing organisations. These discussions were carried out by researchers in the Rote and Labuan Bajo regions between 2017 and 2018. This data reinforces the picture of the forms of violence faced by Indigenous women. It sheds light on how women cope with situations where they encounter obstacles and become embroiled in legal cases. The data presented here includes information on marriage, including situations where a marriage is not yet considered valid under customary law. The findings of this research remain significant to this day, as evidenced by the obstacles women still face regarding their marital status.

This paper is not strictly a socio-legal study. However, this does not mean that it is based on a cursory online search. Reliable references that are sufficiently up to date on Indigenous women from a women's narrative perspective are difficult to find. Similarly, specific keywords must be used when searching for court rulings to ensure that the cases in question relate to Indigenous women. By revealing how the law impacts society - in this instance, customary law and how it subsequently affects Indigenous communities - the aspects of 'law in the book', 'law in society' and 'law in action' are fulfilled, meaning this research can be classified as socio-legal research (Banakar & Travers 2010).

Discussion

Building on D'Andrea's thinking, Indigenous communities in Indonesia may form for several reasons. Firstly, they may form due to kinship or hereditary ties. Secondly, such communities may form due to territorial ties. Thirdly, these communities may form as a result of a combination of kinship and territorial ties, or in other words, a blend of the first two factors. It is important to note that not all group-based entities within society can be automatically classified as Indigenous communities, even if such groups declare themselves as such.

Some literature distinguishes between Indigenous communities and customary law communities. These different terms are also used in Constitutional Court

rulings. Customary law communities are considered to possess distinctive characteristics because their legal rules are binding and fully observed by community members. This distinguishes them from Indigenous communities, whose members may live within a particular community but are no longer fully bound by their customary law. They may also reside outside the context of their original territory or region. The same point is raised in the Constitutional Court's ruling on the characteristics of Indigenous communities.

Firstly, members of customary law communities share a common historical experience. They possess stories, passed down orally or recorded in specialised texts, which detail their group's journey from the time of their ancestors to the point at which they settled. Secondly, members of customary law communities have knowledge of their shared origins and understand that their ancestors came from a particular place. This knowledge is passed down through shared folklore, including specific names for ancestral homelands within each community.

Thirdly, distinctive symbols are used to which the same meaning is attached. These include the use of certain concepts and rituals at specific times involving objects of special significance that are understood only by a particular group. These elements are utilised in the process of collective decision-making.

Fourthly, members of customary law communities share a value system that they regard as a guide to life. This value system is used to resolve conflicts amongst community members and overlaps with the state legal system and religious laws, which are applied according to context.

Fifthly, members of customary law communities are bound to their place of residence and possess knowledge of the environment in which they live as an ecosystem. This knowledge is passed down from generation to generation. Furthermore, there are mechanisms governing prohibitions and permissions relating to the management of the environment and natural resources within the community's territory.

Sixthly, the lives of members of customary law communities are organised according to a distinctive legal system based on values deemed important, as previously explained. Community members submit to,

comply with, or at the very least attempt to conform to these rules.

Indigenous communities possess a number of rights, including: 1) representation in decision-making; 2) the right to practise their Indigenous religion, which is recognised by the state and included in legal identity documents. However, Indigenous women often struggle to obtain birth certificates for their children, particularly if they practise traditional beliefs. Marriages conducted within groups of Indigenous faith believers often cannot be registered under state law, meaning that marriage certificates are not issued. Without a marriage certificate, a child's birth certificate can only list the mother's name, meaning the child is deemed to have been born out of wedlock. In some Indonesian communities, this is considered shameful as it affects the child's social status; 3) The right to education; 4) The right to protection during legal proceedings. This issue is exacerbated by a lack of understanding of state law. Law enforcement officials and policymakers largely still fail to understand and/or apply the protection of the rights of Indigenous peoples, particularly those of Indigenous women who come into conflict with the law, whether as complainants or defendants. For example, regarding the right to legal representation. Law enforcement officials often fail to understand that, under Indonesia's procedural legal rules, suspects must be accompanied during investigations. In the context of customary law communities, however, this support should be expanded to include legal, psychological and interpretative assistance. This should include interpreters who understand the local language and can translate it into Indonesian, and vice versa. Consequently, the judicial process can be conducted fairly and impartially, as Indigenous people facing legal proceedings can understand the communication. Support is required not only for suspects, those reported or defendants, but also for Indigenous women who are victims of violence. They need support from people who understand the local language, as well as psychological and legal support; 5) The right of women and children to be free from violence; 6) The right of women to express their opinions and participate meaningfully in decision-making at various levels within society; and 7) The right to access healthcare services, and so on.

Regarding who can be defined as an Indigenous woman, Devi Anggraini of PEREMPUAN AMAN, as cited

by Putu Gadis Arvia Puspa, states that an Indigenous woman is a woman whose life is bound to a particular territory. According to Devi, there are rules, norms, and social roles within the group that form a bond. These communal social bonds also bind Indigenous women (Puspa 2025). This is why Indigenous women's rights are always framed as communal rights. This distinguishes them from women living in major cities, whose experiences differ, as women in major cities tend to focus more on individual rights.

Furthermore, when discussing Indigenous women, it is important to understand that they are not a monolithic group, and that the issues they face are highly complex. These issues are not limited to gender construction, but also involve class dynamics. This raises the question: to which class do these women belong?

Class within Indigenous communities can be determined by factors such as age, lineage (nobility, commoners, or slaves/servants), property ownership, and an individual's role within a community. For example, individuals who are traditional or local religious leaders, or who are considered to possess supernatural powers, will wield a certain influence. Other questions within the scope of 'which women' include: 1) Are women included in the elite group within Indigenous communities based on lineage?; 2) Are women included in the elite group within Indigenous communities based on lineage or genealogy, as well as through marriage?; 3) Are women included in the elite group within Indigenous communities based on financial and social capital?; 4) Are women included in the elite group because they have access to financial and social capital, even if they are not of noble birth (for example, traders with a high turnover and an extensive network of contacts)?; 5) Are women who do not belong to the elite, but who hold land use rights through marriage and/or descent?; 6) Are women who are not of noble descent and who do not have access to land use rights? For example, women from outside the village or Indigenous community who have entered it through marriage or by moving to be with their families, taking into account the full context.

It is important to examine the backgrounds of women within Indigenous communities, rather than viewing Indigenous women as a single entity, since their respective access to rights may vary depending on their community of origin. This is due to Indigenous women's close experience of social exclusion at various levels.

Social exclusion is defined as the process by which certain individuals or groups are wholly or partially excluded from participating fully in various aspects of life in their place of residence (Kabeer 2000).

Exclusion can occur due to patriarchal values, which lead to the development of power relations and gender inequality within society, including in Indigenous communities. These unequal power relations are continuously institutionalised, ultimately limiting women's ability to contribute their perspectives to decision-making processes. Consequently, women - particularly those not belonging to the elite - may find that their experiences are not reflected in local or national policies. In Indigenous communities, women are subordinated in public spheres; for instance, they are often excluded from decision-making processes. This results in a situation where the presence of men at various customary meetings, whether internal or involving external parties such as state representatives or companies, is deemed to adequately represent women's voices. This is evident in processes relating to land use, ownership of natural resources, and the resolution of violence against women. This is not only the case in Indonesia; it is also reflected in the findings of Griffith (1984) and Estrada-Tanck (2018), who noted that women lack access to, or are marginalised in, the management and transfer of land rights.

The exclusion of Indigenous women from public-sector decision-making processes is also evident when Indigenous women are not involved in initiatives aimed at strengthening the capacity of Indigenous communities. This results in assistance that is consistently consumptive and out of step with the environmental and cultural context of Indigenous women (Saragih 2024).

Furthermore, Indigenous women are often excluded from the reporting and handling of cases of gender-based violence. Within the context of state law, this process is not always straightforward. For example, in certain regions, customary councils or courts serve as the primary reporting channels, and strong religious and customary values instruct women to remain silent about domestic violence, as this would bring shame upon the family (Nurtjahyo 2020).

This exclusion relates not only to cases of violence against women in the domestic sphere (within the

family or in personal relationships), but also to decision-making processes in the public sphere. For example, few Indigenous communities allow women to attend customary meetings as observers. This is the case in the *Kasepuhan Banten Kidul* community (Satari 2015).

Most other Indigenous communities exclude women by forbidding them from attending customary meetings. For example, in the *Dayak Maanyan* Indigenous community, decisions regarding the use of customary land for mining and production forests were made without consulting women. Consequently, ecosystems such as forests, land, and rivers have been damaged. Women's access to materials for producing local handicrafts has also been restricted. Traditionally female-produced goods have become scarce, which negatively affects the local community's economic conditions (Satari 2015).

The same applies to decision-making on matters of common interest. The knowledge, experiences, and voices of Indigenous women are often overlooked. Customary law neither considers nor accommodates women's interests. This applies to codes of conduct resulting from decisions made during the decision-making process, or from agreements with external parties or within the Indigenous community itself. It also applies to decisions to impose sanctions for specific actions. Often, decision-making in customary meetings perpetuates patriarchal values. This can be seen in decisions regarding cases of violence against women, such as domestic or sexual violence.

In West Sumatra, for example, decisions were made without involving women, even when they were the victims. Research by Lestari, Tirtawening and Pranoto (2021) found that customary resolutions of domestic violence cases often exclude the victims. Indeed, victims are sometimes asked to reconcile with the perpetrators in order to preserve harmony within the household, the extended family, and the wider community. This means that even when victims are present in customary legal proceedings, they are excluded from decisions that should protect and support them.

This exclusion serves to guarantee the dominance and privilege of certain elite groups within society. It is important to emphasise that patriarchal values and efforts to exclude women from certain groups or classes are not only found in patrilineal kinship societies, which

trace descent through the male/paternal line, but also in matrilineal kinship systems, which trace descent through the female/maternal line, and in bilateral/parental systems.

Practices that exclude women from decision-making processes can result in actions that are detrimental to them. Examples include: 1) The perpetrator marrying the rape victim in an attempt to remove the village's shame (Nurtjahyo 2020); 2) Child marriage (Zuraini 2017; Sa'dan 2015); 3) Maternal and infant mortality due to outdated beliefs and practices regarding health and child-rearing; 4) Forced contractual marriages arranged by the family for economic reasons, where women are seen as a financial burden. The assumption is that by marrying off a daughter, the family's financial burden will be reduced. This constitutes a form of exploitation of women or girls. While women or girls may be included in meetings about marriage, the decision ultimately rests with the parents. Alternatively, marriage may be arranged without their involvement (Sa'dan 2015); 5) Women are excluded from decision-making processes concerning the transfer of land rights for use as mines or production forests, the resolution of disputes over natural resources, and the management of access to natural resources (Satari 2015). In some Indigenous communities, women are present during traditional ceremonies to prepare offerings, arrange the food, welcome guests, and ensure that the ceremonies run smoothly. However, they are not substantially involved in jointly formulating what is considered meaningful and valuable to the Indigenous community as a whole. Only men are considered to have the authority to convey traditional messages (Puspa 2025); 6) Traditional values that fail to protect women and children contribute to culture-rooted violence. For example, forced marriages involving girls or women occur when the perpetrator, whether acting alone or as part of the family, makes a decision without the woman's consent and takes her by force. Research by Nurtjahyo (2020) and Nafi et al. (2015) has revealed cases of wife killing caused by conflicts arising from the payment of a dowry, or 'belis'. The amount of the dowry is often decided without consulting the woman in question; 7) Domestic violence that cannot be reported because it is considered a disgrace (Saragih 2024; Puspa 2025; Pakka 2025; Lestari, Tirtawening & Pranoto 2021). Many customary decisions regarding gender-based violence do not represent women's interests, instead focusing

on restoring reputation or clearing away shame. For example, 'punjung ayam' or village fines. This violence also includes that perpetrated by state officials against Indigenous women; 8) The exploitation of women's labour, such as sending women as migrant workers to finance the needs of extended families or traditional ceremonies; 9) Women's limited access to health services, such as reproductive health and nutrition education (Brahmana 2015); 10) Severe social or customary sanctions imposed on women, whilst exonerating men, in cases of sexual violence (Zuhraeni 2017). This may be due to a lack of understanding and sensitivity regarding gender-based and sexual violence on the part of 'traditional judges'; 11) In Indonesia, marriages often involve numerous stages involving traditional, religious and state roles. If a single requirement under these customary or religious rules is not met, it can cause other processes to be delayed (Nurtjahyo 2020). For example, the 2013 ruling by the Maumere District Court concerning a couple who were cohabiting because they could not marry under customary law, despite already having a child together. By the time the marriage was finalised according to customary law, the woman had ended the relationship and was living with another man (District Court Judgment No. 49/Pdt.G/2013/PN.MMR); 12) In Rote, some women with children from cohabitation do not dare to propose marriage due to the prospect of a church wedding or the difficulty of registering marriages with the Population and Civil Registration Office or the Office of Religious Affairs. Proposing marriage would subject the woman to verbal abuse and physical violence from her partner (Nurtjahyo et al. 2016). This was confirmed in research conducted by the author and her team in several areas of Rote and Labuan Bajo in 2017. This research was based on a number of small group discussions attended by women and female religious leaders. The women shared a number of experiences involving neighbours or congregants regarding customary, religious, and state-registered marriages.

Examining the various cases above raises the following question: Are there any state or customary legal practices that accommodate these experiences and protect women? The practices of women from the *Kasepuhan Karang* Indigenous community, whose territory lies within the Halimun Gunung Salak National Park, provide an answer. The Indigenous women in this

area are fighting for clear rights over the management of entrusted land, forest cover, and cultivated land. This enables them to support their families by sourcing food from the land, which forms part of the Indigenous community's territory within the National Park - a situation that predates the area's designation as a National Park (Halim 2025).

The practices carried out by women in *Kasepuhan Banten* also demonstrate Indigenous women's participation in traditional council meetings. Although they do not attend in person, they have strategies to follow the proceedings and provide input (Satari 2015).

Furthermore, the incorporation of women's experiences in Indigenous meetings, whether during decision-making or the establishment of rules within Indigenous communities, can be examined using Feminist Legal Theory (FLT) (MacKinnon 1989). FLT can analyse a range of societal regulations to determine whether they may be detrimental to women or even result in violence against them. However, legal anthropology reveals that law is produced by society, not merely by the state. Therefore, the laws present within Indigenous communities can also be analysed using FLT. This analytical process seeks to objectively re-examine the impact of the law on women and how these rules can be improved to ensure justice for all in the context of Indigenous communities.

A legal analysis from a feminist perspective draws on theories developed within feminist legal studies to examine how a seemingly neutral legal rule can be detrimental to women. One such theory discusses three perspectives on 'equality': the protective, sameness, and corrective approaches (Kapur 1991). These three distinct perspectives influence the subsequent development of substantive legal aspects, which ultimately impact women.

The hope is that the resulting regulations can be critically re-examined using the FLT analytical method. The aim is to uncover power imbalances, whether already present or potentially arising, so that the inequalities leading to various forms of discrimination or violence can be identified and rectified.

Examining existing legal instruments will reveal unequal power relations, whether already present or potentially arising as a result of implementing regulations, and strategies will be developed to address

these. Affirmative action within state legal instruments or joint decisions by Indigenous communities adopting a gender justice perspective will be formulated and implemented to grant special rights to the most vulnerable groups, thereby strengthening their capacity (Sieder 2017; Picq 2012). Such affirmative action is temporary until a balance is achieved.

Indigenous women should have the opportunity to learn about both customary and state law. They should be involved in drafting customary or village regulations, particularly those relating to the protection of Indigenous women and children within Indigenous communities. Several strategies can be implemented to provide Indigenous women with such opportunities at a grassroots level. For example, in the *Kasepuhan Banten* community, women are initially allowed to attend customary meetings only to listen, but they are gradually encouraged to participate by asking questions and sharing their opinions (Lestari, Tirtawening & Pranoto 2021; Sieder & Barrera 2017; Swenson & Campbell 2016).

It is also important to introduce mechanisms for resolving conflicts and disputes at village level in order to involve women, particularly in cases of violence against women and children. Although this will be a lengthy process, it is hoped that capacity building, covering both substantive issues and procedural knowledge, and involving men as equal partners in the learning process, will achieve this. The communal aspect can be both a strength and a weakness, so a process of mutual learning to build sensitivity is essential. This process could begin with an educational programme to raise awareness of what constitutes violence, involving young people, traditional leaders, and young families. Encouraging the involvement of young people can give them bargaining power and help to create an equal power dynamic within Indigenous communities.

Closing

As a diverse group, women need to be examined in greater depth. Researchers from outside Indigenous communities, as well as policymakers, must recognise that women's access to these communities can vary depending on the location and situation. For instance, women who are not part of the elite may not have their voices represented in decision-making processes.

Furthermore, meaningful participation requires women to be involved in decision-making processes at various levels. To gain access to the protection of their rights, women must participate in deliberations, even at the village level. Men need to play a stronger role in fostering gender sensitivity. This is done in the hope of fostering gender sensitivity. It is hoped that this will lead to a new awareness emerging within society, enabling people to view women's involvement in decision-making processes more positively, whether by those in authority within Indigenous communities or the state. This will, in turn, lead to women being included in decision-making forums and engaging in meaningful public participation. It is crucial to strengthen women's legal literacy in the context of both state and customary law.

Access to natural resources in Indonesia is currently influenced by class and gender biases. Access, which encompasses the management, utilisation and enjoyment of natural resources, requires a new awareness to be fostered through gender-sensitive education. This will emphasise that both women and men have equal rights to access natural resources.

The above points require a comprehensive understanding that there are problems with the construction of customary values which do not accommodate the protection of women (and children). Such constructions lead to various forms of violence rooted in cultural values and even perpetuate discrimination.

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