Paradox of Justice in Baduy's Customary Law: Bridging Tradition, Human Rights, and Modernization in the Context of Indonesian Legal Pluralism

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Abstract
This study examines the paradox of justice that emerges when Baduy's customary law interacts with universal concepts of justice and human rights. It explores how the Baduy community's notion of justice—rooted in the principle of "pikukuh" and focused on maintaining cosmic balance—often clashes with modern interpretations of justice and individual rights. By analyzing Baduy's legal practices in depth, the study identifies key challenges in reconciling customary law with Indonesia's national legal system. It also considers how this paradox affects efforts to preserve Baduy's cultural identity amid growing pressures from modernization. In conclusion, the study underscores the need to understand the complex interplay between customary law, human rights, and national development within Indonesia's legal pluralism framework

1. Introduction

Customary law one of the oldest legal systems in Indonesia has played a crucial role in regulating the social lives of Indigenous communities for centuries. It functions as a legal framework expressing collective identity and local wisdom (Ratno Lukito, 2008). Among Indonesia's many Indigenous groups, the Baduy tribe in Banten stands out for its unwavering commitment to preserving and applying its customary law, even as modernization intensifies (Yustina Triyani, 2018).

The Baduy people, who reside in the Kendeng Mountains of Banten, are

divided into two main groups: the inner Baduy (Baduy Dalam) and the outer Baduy (Baduy Luar). These groups differ in the degree to which they adhere to traditional customs, with the inner Baduy being more rigid in maintaining their traditions and resisting external influences. Baduy's customary law governs various life aspects, including social interactions, natural resource management, and religious rituals. A defining feature of this legal system is its strict prohibition on modern technology, which the community believes disrupts the natural balance and the simplicity of life they strive to uphold (Ahmad Fauzi, 2020).

Baduy's concept of justice centers on a principle of cosmic balance known as "pikukuh." This principle emphasizes harmony among humans, nature, and the spiritual realm—an approach that contrasts sharply with modern legal systems prioritizing individual rights and responsibilities (Triyani, Tth). This fundamental difference creates a paradox when Baduy's customary law intersects with universal standards of justice and internationally recognized human rights. In the era of globalization, where values such as personal freedom and human rights gain increasing prominence, this tension becomes more pronounced. Baduy's customary norms, grounded in communitarian values, often conflict with these modern ideals. For instance, prohibitions on marrying outsiders or restrictions on using modern technology may be viewed as violations of individual rights under national and international legal frameworks (Ahmad Fauzi, 2020).

Despite mounting modernization pressures, the Baduy people remain committed to upholding their customary law. This commitment raises important questions about preserving cultural traditions and fulfilling universal human rights standards. The Indonesian government has taken steps to accommodate customary law through policies such as the Village Law (Indonesian: Undang-Undang Desa) and the formal recognition of Indigenous peoples' rights. However, implementing these policies in the context of the Baduy tribe continues to present significant challenges (Tody Sasmitha Jiwa

Utama & Sandra Dini Febri Aristya, 2015).

This study focuses on two central issues related to the paradox of justice in Baduy's customary law. First, how does Baduy's customary law define and apply the concept of justice within the community, and how does this conception differ from—or align with—modern legal interpretations of justice? Second, what specific paradoxes emerge when Baduy's customary law encounters universal justice principles and human rights standards, and how do these tensions influence efforts to integrate customary law into the Indonesian national legal system? By exploring these questions, the study seeks to understand the complex interaction between Indigenous legal traditions and the demands of modernity while identifying potential pathways to bridge the gap between them.

This research provides an in-depth analysis of the justice paradox in applying Baduy's customary law. It examines how the Baduy community's locally accepted understanding of justice may conflict with broader, more universal interpretations. The study also investigates how Baduy's customary law endures and adapts amid modern influences and whether a balance can be achieved between cultural preservation and human rights fulfillment. By unpacking these complexities, the study aims to contribute meaningfully to the broader discourse on legal pluralism in Indonesia and the challenges in integrating customary legal systems into the national legal framework. Furthermore, the study offers valuable insights into how traditional communities like the Baduy tribe can maintain their cultural identity while participating in a modern nation-state with evolving legal standards and social expectations.

2. Research Method

This study adopts a normative legal method, focusing on analyzing the Baduy tribe's customary law within the framework of Indonesia's national

legal system and universal human rights principles. It employs legislative and conceptual approaches. The legislative approach examines relevant legal instruments, such as Indonesia's Law No. 6/2014 on Villages, and international frameworks like the UN Declaration on the Rights of Indigenous Peoples. The conceptual approach explores key legal ideas, including justice, legal pluralism, and human rights related to Indigenous communities (Bahder Johan Nasution, 2008).

The study relies on qualitative analysis, presenting its findings as analytical descriptions. It draws upon three types of legal materials. First, primary legal materials include laws and regulations related to customary law and Indigenous rights. Second, secondary legal materials include books, academic journals, and articles discussing the Baduy tribe's customary law, Indigenous concepts of justice, and relevant human rights issues. Third, tertiary legal materials—such as legal dictionaries and encyclopedias—offer additional clarification on legal concepts used in the research. The analysis interprets these legal sources to identify the paradox between Baduy's customary law and the principles found in national and international legal systems. It also explores opportunities to harmonize these distinct legal frameworks.

3. Results and Discussion

Baduy's customary law reflects a deeply rooted philosophy of life passed down through generations. The concept of justice in Baduy society is inseparable from the principle of "*pikukuh*," which forms the foundation of their way of life. Central to this philosophy is a doctrine that emphasizes balance among humans, nature, and the supernatural. This understanding of justice contrasts sharply with modern legal systems prioritizing individual rights and obligations.

The Concept and Application of Justice in Baduy's Customary Law

In practice, justice from the Baduy people's viewpoint manifests through complex rituals and meaningful customary procedures. For instance, the Baduy

people prioritize mediation and reconciliation over punishment in conflict resolution. A key process in this context is "*silih ngahampura*" (forgiving each other), which reflects the community's emphasis on restoring communal harmony rather than pursuing individual justice (Kirana Nurul Arifiani, Tth). This approach demonstrates the restorative, rather than retributive, nature of Baduy's justice. The *silih ngahampura* process follows a series of structured stages. First, the conflicting parties meet before the traditional elders. Each party then presents its version of the conflict. The elders lead the discussion to uncover the issue's root and guide the parties toward a mutually acceptable resolution. Notably, the responsibility for restoring harmony extends beyond the disputing individuals to the entire community, highlighting the collective nature of justice in Baduy society. (Triyani, Tth). The hierarchical structure of Baduy society also shapes the administration of justice. The *Puun* (highest spiritual leader) holds significant authority in enforcing customary law. The *Puun*'s decisions are considered the ultimate expression of justice, as they are believed to stem from a direct connection with ancestral and supernatural realms (Ahmad Fauzi, 2020). This structure reveals that justice in Baduy society operates on horizontal (human-to-human) and vertical (human-to-nature and ancestral) dimensions. The central role of the *Puun* in the Baduy justice system offers a compelling area for further study, particularly in understanding how spiritual authority and communal values intertwine within a legal framework. The *Puun* serves not only as the highest judge but also as the guardian of cosmic balance. In making decisions, the *Puun*(s) consider observable facts and spiritual elements believed to influence communal harmony. The decision-making process often involves special rituals, including meditation and communication with the supernatural, which provide spiritual guidance in delivering justice (Triyani, Tth). The sanction system in Baduy's customary law also reflects their distinctive concept of justice. For minor offenses, sanctions typically take the form of customary fines or the obligation to perform specific rituals. However, for serious violations—such as adultery or using modern technology within the inner Baduy area—the punishment can be expulsion from the community. This penalty, known as "*dikeluarkan dari kesatuan adat*" (English: expulsion from the customary

unity), represents the most severe form of justice in the Baduy context. Its primary purpose is not to punish the individual but to restore the cosmic balance believed to have been disrupted (Ahmad Fauzi, 2020).

Understanding this concept of expulsion requires insight into Baduy's cosmology. For the Baduy, individuals who commit serious violations harm themselves or others and disturb the universe's harmony. Consequently, expulsion is a restorative rather than a purely punitive act. Expelled individuals may rejoin the community after completing a series of long and complex purification rituals. The Baduy concept of land ownership also illustrates their unique perspective on justice. In Baduy society, land is considered communal property and cannot be bought or sold. Agricultural land is distributed fairly based on each family's needs rather than social status or wealth. This approach reflects a commitment to distributive justice and aims to preserve economic balance within the community. (Triyani, Tth). Baduy's philosophy holds that humans are not owners of the land but merely their stewards. The land is considered an ancestral heritage that must be preserved for future generations. The distribution process involves careful deliberation by traditional elders and is accompanied by specific rituals. Family size, farming ability, and community contributions are all considered. This system ensures economic fairness and reinforces the spiritual and social bonds that connect the Baduy people to their land. (Otom Mustomi, 2017).

Paradox of Justice: Baduy's Customary Law vs. Universal Justice and Human Rights

Several significant paradoxes emerge when Baduy's customary law intersects with universal justice and human rights principles. One of the most notable paradoxes involves the tension between individual rights and communal harmony. Modern legal systems emphasize protecting individual rights, while Baduy's customary law prioritizes preserving communal balance. This conflict becomes especially evident in eviction, which, from a human rights perspective, may violate an individual's right to

choose where to live. However, within the Baduy context, eviction is viewed as a necessary action to safeguard the integrity and harmony of the community. A compelling case involves a Baduy community member who chooses to convert to another religion or adopt a modern lifestyle. From the human rights standpoint, such actions fall under the protection of individual freedom. However, for the Baduy, these choices are seen as threats to the cosmic balance and may lead to expulsion.

This tension illustrates the complex challenges of reconciling cultural preservation with individual autonomy. Another paradox arises in the area of gender equality. While the Baduy community values the contributions of women in traditional rituals and household economic roles, the structure of customary leadership remains male-dominated. Women cannot hold positions such as *Puun* or other traditional leadership roles. From the Baduy people's perspective, this division of gender roles represents a form of cosmic balance rather than inequality. However, from a modern human rights viewpoint, restricting women's access to formal leadership positions conflicts with globally recognized principles of gender equality (Ahmad Fauzi, 2020).

Freedom of religion also presents a significant paradox. While international human rights frameworks guarantee individuals the right to practice any religion or belief system, the Baduy community expects strict adherence to their ancestral beliefs as a fundamental aspect of identity and spiritual order—those who deviate risk being seen as disruptors of universal harmony rather than as individuals exercising personal freedom. The Baduy people uphold a strict belief system that prohibits their members from practicing other religions. This stance violates the right to freedom of religion, as guaranteed by the Universal Declaration of Human Rights. For the Baduy, religion is inseparable from their social, economic, and ecological systems. Embracing another religion is perceived not merely as a personal choice but as a complete rejection of the Baduy's way of life. However, from a human rights perspective, this restriction on religious freedom remains a significant concern. (Ahmad Fauzi, 2020).

The rights to education and healthcare also present a complex paradox. The Baduy, particularly the inner Baduy, place strict limitations on formal modern education and modern medical technologies. While these restrictions aim to preserve their customs and protect the authenticity of their traditions, they can also be viewed as constraints on the rights to education and health. Although the Baduy maintain their respective traditional education and medicine systems, such limitations—especially in an increasingly interconnected world—can reduce the younger generation's life opportunities. In extreme cases, such restrictions may even endanger lives, particularly during serious illnesses or epidemics when modern medical care is necessary. (Suparmini, Sriadi Setyawati, & Dyah Respati Suryo Sumunar, 2013).

Implications and Harmonization Efforts

The paradox of justice in Baduy's customary law carries significant implications for the Baduy community and the Indonesian national legal system. On one hand, recognizing Baduy's customary law is essential for preserving Indigenous peoples' cultural identity and rights. On the other hand, it is equally important to ensure that these customary practices do not infringe upon the fundamental rights of individuals. This paradox has far-reaching consequences. For the Baduy community, pressure to conform to national and international legal standards threatens their cultural integrity. Many fear that changes to their customary legal system could gradually erode traditional values and ways of life that have endured for centuries. At the same time, maintaining practices that conflict with human rights principles could marginalize or discriminate against vulnerable groups within the community, particularly women and children. (Ahmad Fauzi, 2020).

The Indonesian government has initiated efforts to harmonize these differences by granting limited recognition to customary law within the national legal framework. For instance, Indonesia's Law No. 6/2014 on Villages acknowledges the existence of customary villages and grants them autonomy in applying local laws. However, applying this law to the Baduy context requires further study. One of the main

challenges lies in balancing the autonomy granted to traditional villages with the need to meet government-mandated standards for basic services. For example, how can we ensure access to education and healthcare for the Baduy people without disrupting their customary system? Addressing this question requires ongoing dialogue and a flexible, collaborative approach. Several strategies can help resolve this paradox, which are outlined below.

1. Intercultural Dialogue

   Policymakers and community facilitators should foster meaningful dialogue among Baduy customary leaders, government representatives, and legal experts to identify common ground between customary law and national legal standards. These discussions should be rooted in mutual respect and recognition of cultural diversity. Such dialogue could be a regular forum involving traditional Baduy leaders, government officials, academics, and representatives from human rights organizations. The goal is not to impose change but to foster mutual understanding and explore areas where compromise is possible. For example, participants could consider integrating elements of Baduy traditional knowledge into the formal school curriculum to make education more culturally relevant. (Ahmad Fauzi, 2020).

2. Contextual Human Rights Education

   Educators and cultural practitioners should develop a human rights education program that aligns with Baduy's cultural values. This initiative should communicate human rights concepts using language and contexts that resonate with the Baduy people. For instance, educational materials could incorporate narratives and symbols familiar to Baduy society. The concept of gender equality, for example, could be explained through analogies related to the natural balance that plays a central role in Baduy's cosmology. This program should also promote a two-way knowledge

exchange, allowing outside communities to learn about Baduy's perspectives on justice and harmony. (Ahmad Fauzi, 2020).

3. Cultural Mediation

In collaboration with cultural experts and community leaders, the government should establish a specialized mediation team that understands Baduy's customary law and the national legal system to address legal conflicts. This team can serve as a bridge between customary and formal legal frameworks. It may include legal anthropologists, lawyers with expertise in customary law, and members of the Baduy community who have received formal education. Their role goes beyond conflict resolution; they also help interpret and translate legal concepts between the two systems. For example, in land disputes, the team can explain Baduy's concept of communal land ownership within the framework of national land law (Triyani,, Tth).

4. Collaborative Research

Researchers and policymakers should conduct in-depth studies on effective practices in Baduy's customary law that could be harmonized with the national legal system. This research must involve the active participation of the Baduy community to ensure accuracy, relevance, and respect for cultural integrity. Collaborative studies could focus on aspects of Baduy's customary law that align with modern human rights values—such as restorative justice methods or sustainable environmental practices. The findings can inform the development of integration models that preserve cultural uniqueness while adhering to universal human rights principles. These efforts should draw on international legal instruments, such as the UN Declaration on the Rights of Indigenous Peoples, which provides a global framework supporting the protection and integration of Indigenous legal systems. (United Nations, 2007).

4. Conclusion

The paradox of justice in Baduy's customary law underscores the complex relationship between cultural traditions and universal human rights principles. Baduy's concept of justice, rooted in the principle of "*pikukuh*" and centered on maintaining cosmic balance, often clashes with modern interpretations of justice and individual rights. Their legal system, which prioritizes communal harmony, mediation, and spiritually restorative sanctions, reflects a fundamentally different approach from contemporary legal systems emphasizing individual rights and codified obligations. This paradox surfaces in many aspects of Baduy's life, including leadership structures, belief systems, education, and access to health services.

Efforts to reconcile Baduy's customary law with national and international human rights standards face considerable challenges. On the one hand, protecting the cultural identity and rights of the Baduy as an Indigenous community is essential. Conversely, certain customary practices—such as gender-based leadership restrictions, prohibitions on religious conversion, and limited access to formal education and modern healthcare—may conflict with globally accepted human rights norms. This challenge becomes even more complex due to the Baduy community's resistance to external change and the fundamental differences between their oral, adaptive legal traditions and national law's rigid, written structures.

Despite these difficulties, there are promising pathways toward harmonization. Intercultural dialogue, culturally sensitive human rights education, cultural mediation, and participatory research can serve as constructive tools to bridge the divide. International frameworks, such as the UN Declaration on the Rights of Indigenous Peoples, support preserving Indigenous legal systems while promoting human rights. Moreover, elements of Baduy's customary law—particularly its restorative approach to justice—can contribute valuable perspectives to the broader discourse on legal reform and justice system innovation. Addressing the paradox of justice in the Baduy context is vital for the community. It offers broader insights into

how societies can honor cultural diversity while upholding universal principles in an increasingly interconnected world.

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