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## SETTLEMENT OF TRADITIONAL DISPUTES ON DOMESTIC VIOLENCE (KDRT) AT ANDIKO'S TRADITIONS 44 IN KAMPAR RIAU REGENCY

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### Abstract

Kampar Regency consists of countries that are allied and under one umbrella under the banner of custom and culture that is not weathered by heat or weathered by rain. Everyone expects the birth of a prosperous, independent and accomplished society under the control of progress (Ninik Mamak/Datuk/Penghulu) who actually hold religion and culture, more specifically holding the tamaddun culture (Indigenous Basandi Syara-Syara Basandi Kitabullah) Implementation of dispute resolution of domestic violence Currently also known as the traditional concept of Tigo Furnace Sajorangan, Tigo Bapilin Tali is a model for implementing government collaboration with Ninik Mamak in Kampar Regency, namely the local government, ninik mamak and alim ulama, so as long as customs are maintained and maintained, the recognition of customary dispute resolution in Kampar Regency, Riau Province based on existing laws and regulations in Indonesia.

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## INTRODUCTION

The customary law community unit that is still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia is the center of community life that is independent and usually tends to uphold according to their respective beliefs. People's beliefs from generation to generation have great power in

social life, because not carrying out traditional customs is the same as not respecting their ancestors, and those who violate customs will receive customary punishment and are sometimes associated with karma.

In the customary law community unit, it is known that there are customary institutions led by the penghulu/ninik mamak, and have grown and developed in the life of the community. In its existence, customary law communities have customary law areas and rights to assets within the customary law areas and have the right and authority to regulate, manage, and resolve various problems of village community life related to applicable customs and customary law.

Ninik mamak has a very important position in a society that has customs, ninik mamak is the leader of the nephew's children and directs the community to the straight path according to custom, guarding inheritance for mutual prosperity, both in the concept of traditional villages and other villages. In the area of Kampar Regency, almost all of the people use river areas or waters to carry out their lives. Likewise, the habits of the people who are used to living led by a leader/ninik mamak. The function of ninik mamak is very large because it acts as an influential person in making decisions in society.

Women are human beings who have unique characteristics. Women are one of the types of creatures created by God who are used as companions or partners for men. Women are also given natural rights, namely human rights by God, which aims to maintain their dignity as human beings. Women are partners of men created with equal mental faculties. Women have the full right to participate in men's activities, in the smallest detail. Women also have the same rights and freedoms as men. Women have the right to get the highest place in the space of activity that they do, as men in the space of their activities.

Violence against women because of their female gender is an increasingly worrying phenomenon in recent decades. Women as one of the groups vulnerable to human rights violations, often become victims of violence. The model of violence against women is also growing, both the type and the perpetrator.

Violence in the Big Indonesian Dictionary means: "About that is hard; The act of a person or group of people causing injury or death to another person or causing physical or property damage to another person; coercion.

Galtung describes six important dimensions of hardness, namely as follows:

1. Physical and psychological violence. In physical violence, the human body is physically hurt even to the point of murder. While psychological violence is pressure that is intended to reduce mental abilities or the brain.
2. Positive and negative influences. The reward-oriented system is actually "controlling", not free, less open, and tends to be manipulative, even though it provides enjoyment and euphoria.
3. There is an object or not. In certain actions, there is still a threat of physical and psychological violence, although it does not result in casualties but limits human actions.
4. There is a subject or not. Violence is called direct or personal if there is a perpetrator, and if there is no perpetrator it is called structural or indirect. Indirect violence has become part of the structure (the structure is bad) and manifests itself as an imbalance of power that causes unequal life opportunities.
5. Intentional or not. Emphasizing on the effect and not the goal, an understanding that only emphasizes the intentional element is certainly not enough to see, overcome the structural violence that works subtly and unintentionally. From the victim's point of view, intentionally or unintentionally, violence is still violence.
6. The visible and the hidden. Violence that is visible, real (manifest), both personal and structural, can be seen even if indirectly. Meanwhile, hidden violence is something that is not visible (latent), but can easily explode. Hidden violence will occur if the situation becomes so unstable that the actual realization rate can drop easily. Structural hidden violence occurs when an egalitarian structure can be easily transformed into a feudal one, or the evolution of hierarchical military support can turn into a hierarchical structure again after the main challenges have been overcome.

Galtung also distinguishes between personal and structural violence. The nature of personal violence is dynamic, easy to observe, shows great fluctuations that can cause change. Meanwhile, structural hardness is static, showing certain stability and is not visible. In a static society, personal violence will be considered, while structural violence is considered normal.

However, in a dynamic society, personal violence can be seen as dangerous and wrong, while structural violence is increasingly manifesting itself.

The juridical definition of violence can be seen in Article 89 of the Criminal Code (KUHP), which states that "making people faint or helpless is the same as using violence". Fainting is defined as memory loss or unconsciousness. Then, what is meant by being powerless can be interpreted as having no strength or power at all so that he is unable to hold any resistance at all, but someone who is helpless can still know what happened to him.

The acts of violence as mentioned above can be said to be abused in the Criminal Code which is classified into two, namely severe abuse as regulated in Article 354 of the Criminal Code and minor persecution in Article 352 of the Criminal Code. The definition of severe abuse is when the act results in serious injury, as regulated in Article 90 of the Criminal Code. According to article 90 of the Criminal Code, serious injuries are formulated as follows: falling sick or getting injuries that do not give hope of recovery or which poses a danger of death, unable to continue to carry out a job or job, lose one of the five senses, get severe disability, suffering from paralysis, impaired thinking power for four weeks, the death / death of a woman's womb.

In addition to the provisions regarding Article 352 of the Criminal Code and Article 354 of the Criminal Code, there are several other articles relating to persecution, such as Article 351 of the Criminal Code on persecution, Article 353 of the Criminal Code regarding planned serious abuse, and Article 356 of the Criminal Code regarding abuses committed against fathers, mothers, husbands. , wife, or children, the threat of punishment is increased by a third. These provisions do not explicitly regulate violence in the family, but at least they can be used to report perpetrators to the police and as a basis for criminal cases in court.

## **ANALYSIS AND DISCUSSION**

Women with a weak nature than men, sometimes always become victims of domestic violence, their submissive personality tends to be an object for men who don't think that women are actually a gift that must be protected. Violence against women is usually caused by lack of religious knowledge, economic factors, marriage at a young age, low education or ignorance of women about their rights, so the role of women needs to be explained in each sector.

Protection should be obtained by women as regulated in laws and regulations, including the role of various parties so that whatever type of violence women receive cannot be justified. The role of all parties is needed so that women are no longer victims of ignorance of their rights. It is not non-existent in this country, special institutions tasked with providing protection to women who are victims of domestic violence, but we are aware of their existence because they are still limited.

Kampar Regency with its plurality of people, especially with a fairly large area, has tried to provide protection to women who are victims of crime, this can be seen from the existence of a Task Force for the elimination of violence against domestic violence in every existing sub-district. . This task force, which is indirectly part of the activities of PKK women in the sub-district, works together with the community health center (puskesmas) and the sector police to carry out a series of tasks in accordance with their main duties and functions.

In the international provisions, the Convention obliges States to realize substantive equality between women and men in the fields of:[7]

1. Political and public life (Article 7)
2. Represent the State at the international level and participate in the work of international organizations (Article 8).
3. Obtain, change or retain their nationality (Article 9).
4. Education, including participating in the same curriculum and examinations, as well as teaching staff, buildings, and school equipment of the same quality (Article 10).
5. Employment, including work as a human right, the right to equal employment opportunities, freely choosing a profession and work, equal pay including benefits and equal treatment in relation to work of equal value, as well as the right to social security, protection of health and work safety, and protection of reproductive functions (Article 11).
6. Health care, including the right to obtain services related to family planning, pregnancy and breastfeeding (Article 12)
7. The right to family allowances, bank loans and other forms of capital credit, recreational activities, sports, and others (Article 13).
8. Marriage and family, including the right to enter marriage, choose a partner, as well as the same rights and obligations as parents in matters relating to their children (Article 16).

9. The Convention pays attention to the special problems faced by rural women and eliminates discrimination against women in rural areas so that they can participate in, and enjoy the benefits of rural development (Article 14).

10. Ensure equal rights of women and men before the law, equal legal competence, and respect for the mobility of people and the choice of place of residence and domicile (Article 15).

Women with inherent human rights, women's position is also very strategic in unifying the household and the development of the Indonesian nation, so that the State must protect it from any threats on an ongoing basis through the fulfillment of their rights in the life of the nation and state. Following are the important roles of women in each sector, namely:

1. The household is the smallest group in the state, so that the position of women in the household is as the glue that unites the household, both in carrying out the duties of a wife for her husband and the mother of her children;
2. The personality of a woman who loves, as a mother, a woman is more capable and careful in solving every problem in her way, so that it is not wrong when a woman who completes household affairs will be more thorough, gentle and pay attention to everything that will happen;
3. The habit of women preferring to gather and do positive things such as cooking, grouping according to their respective hobbies, PKK women, taklim assembly, social gathering and other family social groups;
4. Habits of women are more able to organize and conceptualize their habits than men, so that women do more positive things than men who hang out to spend time;
5. Women need attention and care for their independence;
6. Women are considered weak, so they often get unfair treatment from men, especially in the household.

The existence of customary law communities is constitutionally regulated in the 1945 Constitution of the Republic of Indonesia in Article 18B paragraph (2), namely: The state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with developments. society and the principles of the unitary state of the Republic of Indonesia, which are regulated in law, then in Article 28I paragraph (3) Cultural identity and rights of traditional communities are respected in line with

the development of times and civilization.[8] so that in community practice the position of the customary head is properly recognized and respected by the state as a part of the indigenous peoples in Indonesia.

The customary nature of the Kampar customary law community, there are those who can accept changes and some who cannot accept changes, then giving value to the custom is called cupak. Therefore, according to the existing nature, it is known that there are two cups, the original cup and the artificial cup. The original cupak are values that have been received from generation to generation and are the core and philosophy of existing customs. The artificial cupak are values that are born on the basis of an agreement or coercive circumstances. Thus, the real customs and customs that are held are included in the artificial cupak category.[9]

Ninik Mamak to Andiko 44 as a traditional leader who is recognized by the Kampar Indigenous community, has an important role in every line of problem in his community, including the management and resolution of disputes over domestic violence. In the case of disputes in the household, the ninik mamak of the customary holders carry out or hold a customary meeting at the traditional hall or village hall which aims to negotiate and find a solution to the subject matter. A ninik mamak must be fair so that the niece and nephew can feel comfortable with the decisions taken. As a ninik mamak, you must be fair in taking the middle way, because traditionally a ninik mamak is only entitled to adjudicate disputes, not to side with one of the disputing parties.

In solving this problem, the competence of a ninik mamak is also considered, meaning that the ninik mamak who are present and can make decisions are those who have traditionally taken a step ahead in making decisions and policies in adat. Because indigenous peoples are regular human units, settle in a certain area, have rulers, and have tangible and intangible wealth. Bushar Muhammad gives an understanding of customary law communities, namely legal communities whose members feel bound in an order based on the belief that they all come from the same lineage or come from the same land where they live.

In the customary regulations that apply in Kampar Regency (unwritten) to become a community leader, Ninik Mamak (Datuk/Penghulu) must have the following characteristics and conditions:

- a. Obedient to the religion of Islam.
- b. Think clearly, have common sense, appear in every word and advice.

- c. Knowledgeable, generous, patient, generous.
- d. Understand the foundation and customary law.
- e. Only men who are mature and with common sense.

In addition, a Ninik Mamak (Datuk / Penghulu) is a great pride for the family, getting a customary title is a pride for his family.

Meanwhile, a man who deserves and deserves the title of inheritance is:

- a. The lineage, the person concerned is truly the heir of the progenitor who is replaced.
- b. The turn line, the turn of the progenitor who is replaced.
- c. Sense of care, the father must have a sense of care for the community and heritage.
- d. Understanding customs, the person concerned must understand more or less about customs and have a good temper, because later he will sit with other Ninik Mamak (Datuk / Penghulu).

In accordance with the regulations mentioned above, as Ninik Mamak (Datuk / Penghulu) has the following main duties:

- a. Assist the government in seeking smooth implementation of development in all fields, especially society and culture.
- b. Manage the affairs of customary law and customs in adat.
- c. Giving legal status according to customary law on matters relating to the assets of indigenous peoples for the benefit of customary civil relations as well as in the case of disputes or customary cases.
- d. Organizing the guidance and development of customary values, in order to enrich, preserve and develop the national culture in general and the culture of indigenous peoples in particular.
- e. Protect, maintain and utilize the wealth of indigenous peoples for the welfare of indigenous peoples.

Looking at the history of the XIII community of Koto Kampar, according to some people, its history could not be separated from Minangkabau customs, in which a family member can also be given the title of adat. Each family in Minang Kabau exhibits the following elements:

1. An andiko penghulu becomes the head of a family; the sections of the family each occupy one house (jurai) and are in turn led by several grandmothers, but the head of the family is always an andiko penghulu, that is, a man.



2. Against another unit, for example, another village family (Nagari), foreigners from outside, own unit or higher government, the family always acts as a unanimous unit.
3. Each family has tangible assets in the form of heirlooms, namely assets that are owned because they have been obtained and maintained for generations and which are placed directly under the management of the head of the andiko; In addition to this tangible wealth, there is also intangible wealth in the form of, among others, titles.
4. None of the members of the family has the desire or thought to dissolve the family or leave it, to break away from the family unit, as a member to leave the family is only forced in extraordinary cases (extinction, betel nut or gadang deviant); The family is a fixed organic unit.
5. Families are controlled and bound by and are subject to certain regulations which constitute a system (system of legal regulations) that is maintained by their respective heads and adhered to by members with all their heart and trust.

The role of ninik mamak as traditional leaders and penghulu has been very dominant in managing social life. In the ancient period, community regulation was based on customary law which involved all aspects of life such as marriage, birth, death, farming and rice fields, catching fish, building houses, building places of worship, roads, bridges, ceremonies/beliefs and so on. Ninik Mamak or penghulu as the leader of indigenous peoples carry out their leadership duties based on customary law that has existed for generations.

On the shoulders of Panghulu or Ninik Mamak bear the burden of leading the niece and nephew to follow the straight path, according to the customary path and the inheritance line (pusako), to maintain inheritance (warih bajawek, pusako helped) and to fill in customs, limbago is poured ibo in children who do not eat, give it to the children without babaju. All of Ninik Mamak's existence is based on existing laws or norms outlined by our ancestors.

Even though the top people become the Heads or Penghulu, but what will be done is also agreed upon with the other Penghulu, the traditional Penghulu cannot work independently, but in stages up stairs because the other Penghulu also have an obligation called Genggam. and hold on to each other, embracing together in a decision. Then in the implementation or decision making of Andiko's customary law 44 there are 8 (eight) things to be considered, as follows:

1. First: Traditions that are tiered up and down the stairs grow in the country, namely berbilang from one, reciting from the base, going up from the level below, coming down from the stairs above, namely nephew beado kemamak, mamak be adjo kepenghulu, penghulu be adjo kepenghulu nan right, really stands alone. The descending ladder is that the Prophet descended the keninik from ninik down to mamak, from mamak it was delegated to nephews, thus the level of ascending and descending stairs.
2. Second: Tradition is imitating the example, the growth of herbal medicine splints, namely the same path is followed, the same way is followed by the same custom is used, limbago is the same as being followed, imitating the example.
3. Third: Customs that are separated from each other, that is, they grow in the village's core, the village is fenced in with state heritage fenced by law, there is a circle, there is a waiting line, a line that cannot be exceeded, if the line holds sight, the back holds tjoba.
4. Fourth: Nan bertjupak and bertangan, growing crossed djo difference or accusations with answers, namely the law punishes in the korong djo village, if you weigh the same weight, if you measure the same pamdjang, can't be left related, can't take sides, hold it straight serious.
5. Fifth: Badjokok badjugalo customs, shari'ah hammers humiliate the world, retaliate, urges to reply, call in succession, lust for abstinence from lack of worldly abstinence from steps.
6. Sixth: Customary vows, meaning having hereng djo gendeng, seeing Baso djo stale, seeing more djo less, considering djo destitute is mufa'at.
7. Seventh: The custom of thinking, namely walking and walking, consensus then saying, then it is perfect.
8. Eighth: Customs that require real nature, namely the above customs grow, real circular heirlooms, full cupak sitalago, gantang simaradja lelo, limbago sipat waiting, invite meisi will.

In enforcing the law, a ninik mamak must be in a fair way by putting things in their place, do not punish innocent people, such as houses with stones, custom with grooves, grooves with proper joints. This means that if it is pounded in a mortar, if it is boiled, it is

boiled, otherwise that is why the country is tangled up because the rulers have wronged the country.

According to customary criminal law, all wrongdoings have been calculated and assessed in their entirety, in order to be able to consider whether the perpetrator can still be forgiven and have his actions forgiven or if he is the perpetrator, further action is taken. The settlement by a legal officer may be left to the family or relative to take the necessary action or if the relative in question leaves it to a legal officer, the perpetrator is removed from the community, especially if the violation has occurred repeatedly.

## CONCLUSION

The implementation of domestic violence dispute resolution is currently also known as the traditional concept of tigo furnace sajorangan, tali bapilin tigo is a model for implementing government cooperation with ninik mamak in Kampar Regency, tigo furnace tigo sajorangan consists of the local government of Kampar Regency, ninik mamak and religious scholars, so that as long as adat is maintained and maintained by all parties, the recognition of the settlement of customary disputes against domestic violence in the Andiko 44 Indigenous in Kampar Regency, Riau Province, is of course based on the existing laws and regulations in Indonesia.

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