

## The Concept of Gender-Based Justice in Arfak Sougb Indigenous Community in Teluk Bintuni Regency, West Papua, Indonesia



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**ABSTRACT:** This paper explains the concept of gender-based justice in the Arfak Sougb Indigenous Community in Teluk Bintuni Regency, West Papua. This legal research aims to serve as recorded customary law and as a reference for customary law which contains local wisdom values that are believed to be true and adhered to by the Arfak Sougb Tribe so that they are not lost to time. This research is not intended to make customary law a written law, in the sense that it is given a certain legal form according to statutory regulations. This type of research is empirical legal research. The concept of gender-based justice is outlined in the form of equality in customary meetings, utilization of customary rights (*cinogog*), measurement of the maturity of boys (*giji*) and girls (*gita/godeh*) which are not based on a certain age limit, but are characterized by characteristics of biological development. The woman or lady (*aktop*) chosen as a potential wife/daughter-in-law has a diligent character, not from beauty or physical appearance. Boys (*giji*) and girls (*gita/godeh*) are considered equally important. Girls (*gita/godeh*) will bring wealth in the form of a dowry (*aromoub*) when they marry (*ouhwbo*), while boys (*giji*) will continue their lineage, as successors to the clan.

**KEYWORDS:** Justice, Gender, Indigenous Peoples, Arfak Sougb

### INTRODUCTION

Indigenous peoples are communities that live by adhering to the customary laws of their ancestors. Such customary law communities still carry out the culture and traditions that have been passed down from generation to generation. Indigenous peoples exist in every country as well as in Indonesia. The protection and appreciation of indigenous peoples' cultures, their distinct ways of life, and their traditions and customs need to be considered. The protection is also based on the belief that indigenous peoples have the right to continue to live with their own identity and the right to determine the way and pace of their development.[1]

Indonesia's attachment to Indigenous Peoples is inseparable from the state objectives in the preamble of the 1945 Constitution. As it is known, following what is formulated in the Preamble of the 1945 Constitution, which reads: "...to protect the entire Indonesian nation and the entire Indonesian homeland and to advance the general welfare, educate the nation's life, and participate in implementing world order based on independence, lasting peace, and social justice,..." [2] From this formulation, it can be said that the objectives of the Indonesian state are:

1. The protection of the entire Indonesian nation and all Indonesian blood spilled;
2. The welfare of a developed society;
3. The intelligent life of the Indonesian people; and
4. An orderly world based on freedom, lasting peace, and social justice.

To realize the four state goals, a series of efforts are certainly being carried out, especially by the government with the support of all parties.

Every custom, language, tribe, and religion in Indonesia contains a value system and knowledge system that date back hundreds or even thousands of years. It has been organized and managed for generations with thousands of customary laws, guided by hundreds of belief systems and religions. Indonesia is a nation built from hundreds or even thousands of sovereign, independent, and dignified nations, each of which has experienced ups and downs in its history. This variety of customary laws is a consequence of the diverse ethnic groups in various regions of Indonesia.

Indonesia is a maritime country connected by vast oceans. In addition to consisting of a variety of customary laws, the consequences of this maritime country are also a big challenge to remaining committed to the lives of the nation and state. The consequences of the diversity of customary laws and the country's maritime state threaten the extinction of various tribal languages,

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the disappearance of customary laws, the blurring of various cultural identities within the community, and the weak authority of customary institutions in national and state life. Even more concerning is the ongoing unilateral expropriation and seizure of customary land, customary water, customary territories, and other natural resources entrusted to indigenous peoples by their ancestors.[3]

Specifically, the diversity of customary law cannot be separated from the traditional structure of customary law communities, in which there are legal alliances of customary law communities whose members feel strongly bound to each other both genealogically and territorially. Genealogically, there are unilateral, parental/bilateral, and double unilateral ways of drawing bloodlines or kinship.

Based on the explanation of Law Number 21 of 2001 concerning Special Autonomy for Papua Province, the diversity of customary laws in Indonesia, one of which is customary law in Papua, Papua Province is a province granted Special Autonomy, part of the territory of the Unitary State of the Republic of Indonesia, which has ethnic diversity and more than 250 (two hundred and fifty) regional languages and is also inhabited by other tribes in Indonesia.

Based on Law of the Republic of Indonesia Number 35 of 2008 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2008 concerning Amendments to Law Number 21 of 2001 concerning Special Autonomy for Papua Province into Law, the Provinces of Papua are Papua Province and West Papua Province. Based on the considerations: letter b, that the Papuan people as creatures of God and part of civilized humanity, uphold human rights, religious values, democracy, law, and cultural values that live in indigenous peoples, and have the right to enjoy the results of development reasonably.[4]

As an illustration of the customary law community of the Arfak tribe, consisting of the Arfak Hatam, Moile, Sougb, and Meyah tribes, located in the Arfak mountains, Endang Sumiarni et al. have been researched, the results of which are essentially that the Arfak tribe customary law community knows and understands its customary law.[5] The customary law of the Arfak tribe is internalized and cultured in the lives of local indigenous people. The existence lies in the fields of customary government, customary kinship, which includes how to draw bloodlines, maturity of children, and young people's relationships; customary marriage law, including courtship, engagement or sticking to the door; marriage, dowry, marriage prohibitions, forms of marriage; the position of husband and wife; divorce; customary land law; inheritance law; customary delicts; and customary justice. This research will specifically discuss the concept of gender justice in the life practices of the Arfak Sougb customary law community.

The Arfak Customary Law Community is not only located in the Arfak Mountains but also spreads to the Bintuni Bay Regency area, which includes the Arfak Sougb Customary Law Community. Bintuni Bay Regency is generally included in the customary area of III Bomberai, which includes 7 major tribes, namely the Moskona, Sougb, Kuri, Wamesa, Irarutu, Sebyar, and Sumuri tribes. The area of Teluk Bintuni Regency is inhabited by seven major tribes spread from the coast to the mountainous highlands. The tribes in the coastal area are the Sebyar, Kuri, Sumuri, and Irarutu tribes, while the Sougb, Moskona, and Wamesa tribes are mostly in the mainland area. The Arfak-Sougb indigenous people have a unique concept of gender justice. The formulation of the problem in this study is: How is the practice of the concept of gender justice in the customary law community of the Arfak Sougb tribe in Teluk Bintuni Regency, West Papua Province, and does this practice fulfill the theory of gender justice?

### **RESEARCH METHOD**

The research method used was a type of empirical legal research. Empirical legal research is research conducted on or focused on social facts. This research was conducted directly with respondents to obtain primary data, supported by secondary data consisting of primary and secondary legal materials.

The approach in this research is a legal sociology approach. According to Soerjono Soekanto [6], legal sociology is a science that theoretically analyzes and empirically highlights the influence of other social symptoms on law and vice versa. The legal sociology approach is intended to find out about the practice of life in the Arfak Sougb customary law community and whether it is in accordance with the theory of gender equality.

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## DISCUSSION

### 1. Overview of the Arfak Sougb Region and Indigenous Peoples



**Figure 1. Map of Indonesia and neighboring countries**  
(source: <https://www.voaindonesia.com>)



**Figure 2. Map of Teluk Bintuni Regency**  
(source: [https://id.m.wikipedia.org/wiki/Berkas:92.06.00\\_PapuaBarat\\_Teluk\\_Bintuni.svg](https://id.m.wikipedia.org/wiki/Berkas:92.06.00_PapuaBarat_Teluk_Bintuni.svg))

The area of Teluk Bintuni Regency, West Papua, Indonesia is inhabited by seven major tribes spread from the coast to the mountainous highlands (*menmot*). The tribes in the coastal area are the Sebyar, Kuri, Sumuri, and Irarutu, while the Sougb, Moskona, and Wamesa tribes are mostly in the mainland area. The tribes that inhabit the world's second-largest mangrove area also have different ethnicities, languages, and religions. Based on the stories of their ancestors, the Arfak tribe in Teluk Bintuni Regency originated from the Iba clan. Iba means father, while Dowansiba means mother. Iba and Dowansiba have children and are spread to Fak-fak, Kokas, and also in Teluk Bintuni Regency. In Teluk Bintuni Regency, there are several districts, namely Bintuni district, Tuhiba district, Manimeri district, Beimes plain district, maybe some in Timbuni district, and then there are some in Merdei district, those who come from the Iba clan. Based on the narrative of their ancestors, the customary law community of the Arfak Sougb tribe in Teluk Bintuni Regency comes from the descendants of the Iba clan.



**Figure 3: Arfak Sougb Tribe Descent Flow**  
(Source: Primer Data)

The birth of the Arfak Sougb tribe in Bintuni Bay Regency occurred during the division into seven tribes in Bintuni Bay Regency. In Bintuni Bay Regency, there are seven tribes. One of them is the Arfak Sougb tribe. So now there are seven tribes in Teluk Bintuni Regency, including the Sougb tribe. It is not very clear what is meant by the term "sougb" itself. In some other tribes and clans, there is information that explains what the tribal or clan name means and where the name comes from.

Their language has been passed down from generation to generation, as determined by their ancestors. What the ancestors left behind are earthly relics. Heavenly heritage is everything that comes from the Almighty. The gift that comes from God is creation in the form of *tete* and *nenek* (*grandparents*). The *tete* comes from Adam, and the grandmother comes from Eva. In ancient times, the language came from one, but this language then developed and a new one emerged. They think that the language has been divided. Each tribe has its own language. It is the same with people from the Javanese tribe, although they are both Javanese but have different languages.

According to the Arfak Sougb indigenous people, Sougb has two meanings. First, Sougb means "difficult." This term is used in everyday language in household life. Secondly, Sougb means people of Iba descent, which applies to all Iba people. All people from the Arfak Sougb tribe are Iba people. This is because the Arfak Sougb tribe exists in Manokwari, Pegaf, Mansel, and in Teluk Bintuni Regency.

### 2. The Concept of Drawing Lineage

Relationships that occur through marriage (*ouhwbo*) determine a person's clan, especially for the children they give birth to. For example, if a woman from the Arfak Sougb tribe marries a man from the Moskona tribe, she must join and become a member of the Moskona tribe. If a Moskona woman marries a man from the Arfak Sougb tribe, she becomes a member of the Arfak Sougb clan. Therefore, a wife who has married (*ouhwbo*) will enter and become part of her husband's clan. A wife who becomes a member of

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her husband's clan still uses her own clan name. Children who are born, both male and female, follow and use the surname of their father.

Based on how to draw the lineage, the membership of a clan has a man of origin and a migrant woman as a wife. The wife comes from another clan, which, after being given a dowry (*aromoub*), the wife will enter as a member of her husband's relatives, although the wife still uses her original clan. Children born both boys (*giji*) and girls (*gita/godeh*) use their father's clan name. This way of drawing bloodlines includes the concept of patriarchy. Societies that draw on patriarchal lineages are more likely to implement systems of life that show gender inequality between men and women.[7][8]

### 3. Concept of Gender Justice in the Arfak Sougb Indigenous Community

Although the Arfak Sougb Indigenous Community adheres to patrilineal lineage or is based on patriarchy, in their community life, the role of women is highly respected and upheld. They do not differentiate between men and women. In order to elect a chief, the community gathers at the Rumah Adat in Kali Kodok (the name of the compound). Men or women can attend the meeting. The election of the chief always results in a new chief. To date, there has never been an unsuccessful tribal chief election meeting. If the elders have appointed someone to be the chief, the whole community will accept and vote for that person to be the chief. Women are allowed to attend and have voting rights before the customary assembly. *The Women's Studies Encyclopedia* explains that gender is a cultural concept that seeks to make differences in roles, behavior, mentality, and emotional characteristics between men and women.[9] The local community considers that women still have the right, as part of the community, to be heard. They do not differentiate based on gender.

The maturity of boys (*giji*) and girls (*gita/godeh*) is not based on a specific age limit but is characterized by the characteristics of the child's biological development. Girls (*gita/godeh*) are said to be mature if:

1. has grown milk (*marij mogo*)
2. menstruation (*ouwada*). Children who are 12 years old or 13 years old have started menstruating (*ouwada*).

A boy (*giji*) is considered an adult if:

1. the appearance of acne
2. beard growth (*momun mod*)
3. Adam's apple (*morum maga*) If it is related to the age limit, a male is said to be an adult when he is 12–13 years old.

Boys (*giji*) and girls (*gita/godeh*) who are still children are not prohibited from playing together, either at school or with neighbors after school. Children who play together may get into fights with each other. In this case, it is sufficient to resolve it between the parents of both parties. Parents each advise and remind their children. If a child is injured, both parents look for traditional medicine for the injured child. Neither the child nor the parents will be subject to customary sanctions. The settlement is more about kinship and cooperation. In practice, women who are considered adults can only be allowed to marry in accordance with the provisions of state law, namely, Marriage Law Number 1 of 1974 as amended regarding the age of the prospective bride and groom. The minimum age at which women are allowed to marry is 19 years old. Previously, girls aged 16 (sixteen) years could already get married, with changes in the age limit mandated by the Constitutional Court's decision, this can no longer be done so it is hoped that child marriage will no longer occur. [10]

Adult boys (*giji*) and girls (*aktop*) meet on special occasions, such as ground pounding, basketball gatherings, or volleyball. They watch sports events together. In the past, young men (*enggiji*) and women were not allowed to date. The prohibition aims to prevent adultery and various other forms of delinquency, so there must be a distance to prevent violations. If there is a violation that has been determined according to customary law in the Arfak Sougb tribe, it will result in sanctions. Sanctions are imposed in the form of customary fines, which must be paid at the request of the victim's family. Fines are related to property according to the forms that have been cultivated.

In ancient times, Nona/ mature women (*aktop*) were forbidden to associate with men who already had wives. The prohibition was in anticipation, so as not to disturb other people's families. As a result, if a woman disturbs a married man, a customary fine will be imposed, but if a married man also wants to be disturbed, both will be subject to customary fines. Nona (*aktop*) is subject to a customary fine (*amora*), which must be paid to the legal wife of the man. In this case, the community considers marital relationships to be sacred, so both adult women and men are prevented from destroying other people's marriages.

Young men (*enggiji*) and mature women (*aktop*), who like each other, must tell their fathers and mothers. The mature woman/Nona (*aktop*) chosen as a prospective daughter-in-law is diligent. Physical appearance, such as being thin, fat, not beautiful, tall, or short, does not matter. Even a highly educated Nona (*aktop*) is not a measure to be used as a daughter-in-law. The most important choice is a woman who is diligent and willing to help parents in the kitchen, gardening, and cleaning. The problem of beauty is third. Beauty does not guarantee happiness. The male family will come to propose (*lerwara doubo*) to the female family. The young man (*enggiji*) and the woman (*aktop*) are smiling as a sign that both are willing. When the male family comes to propose (*lerwara doubo*), they bring Timor cloth, money, pigs, paseda, and beads (*limeta*).

An mature woman or Nona (*aktop*) becomes pregnant out of wedlock (*modomara auboub*), has not been given a dowry (*aromoub*), and then the woman gives birth (*meih auboub*), and the child born, both a boy (*giji*) and a girl (*gita/godeh*) will use the



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mama's clan name. The family of the woman who became pregnant out of wedlock (*Modomara Auboub*) tries to find the man who impregnated her. If a customary marriage is then carried out, using the payment of a dowry (*aromoub*), the child born uses the father's clan name.

Pregnant wives in the past, before giving birth, were placed in a hut next to the house or in the yard of the house, called a *domro*. *Domro*, as a place to give birth, should not be on the side of the spring because customary law prohibits it. This resulted in coughing and shortness of breath due to the dirty blood of childbirth. The wife who gives birth is placed in a special hut (*domro*) so that the husband is not exposed to dirty blood. Husbands who are exposed to dirty blood when their wives give birth can get coughs and shortness of breath. The wife, after giving birth, is not allowed to pass through the garden until the baby's umbilical cord has been removed; only then is she allowed to return home. This is not intended as a form of gender justice. This is done with the consideration that the woman can give birth properly and that the child born is also kept clean and healthy by being in a separate room. Wives who are in the hut (*domro*) are accompanied by mothers (*stemos*). The mothers (*stemos*) provide water for drinking and food. When the wife gives birth, she is assisted by a baby shaman (*mesra rohud/odeih*), including cutting the umbilical cord (*dukka/amiej*) using a bamboo blade, which must be experienced.

Nowadays, the wife who is about to give birth is not placed in a special hut; she continues to live and be in the house together with her husband. The husband is in a separate room. When the wife is about to give birth, she is in a separate room, accompanied by the mother (*stemos*). Nowadays, wives who are about to give birth are taken to the hospital. The wife, after giving birth, is not allowed to have sex with her husband until the child is at least six months old, sometimes even until the child reaches two years old. The aim is for the wife's womb to recover and be healthy. Another goal is to regulate the spacing of children as well as family planning by natural means. In addition, the child and mother are healthy. If children are born too close together, for example, one year apart, it is feared that the child's growth and development will be disrupted. Children, both boys and girls, sleep in the same room with their father and mother, and until the children graduate from elementary school, they have their own room. Another way is that boys (*giji*) sleep with their fathers, and girls (*gita/godeh*) sleep with their mothers. The typical house of the Arfak Sougb tribe is in the style of millipede architecture; inside the house there are rooms.

The Arfak Sougb indigeneous community does not recognize a house as a dormitory for adult sons (*giji*), as does the Biak tribe. Married children will live in their own house, unless they do not have a house and still live in their parents' house, but in a separate room. If the children already have their own house, they still visit their father and mother. The father and mother have the same obligation to educate their children.

All family members of the Arfak Sougb tribe have the same right to benefit from customary rights (*cinogog*). Every member of the Arfak Sougb tribe has the same right to benefit from communal land (*cinogog*) and its contents, such as rattan and nok wood. All rights to communal land (*cinogog*) and its contents are regulated by the tribal chief. Each clan already has its own clan-customary land (*cinogog*). The boundaries of the customary land area (*cinogog*) have been determined. The boundary is used as a limit so that clan members do not exceed or enter the customary land (*cinogog*) of other clans. In addition, residents who hunt animals should not exceed the boundaries of their customary land (*cinogog*). The Arfak Sougb customary law community uses the term "do not violate the upper and lower limits."

Parents will divide the forest (*sirepere*) as well as the sago forest. The forest (*sirepere*) is a place of food for members of the local customary law community. The sago forest is distributed to male and female siblings. Each sago forest that has been divided is a full right for those who receive it, so there is a prohibition not to enter the sago forest area belonging to the other heirs unless there is permission. In general, there are forests (*sirepere*) that are still joint rights, meaning that they are not distributed to each heir but may be utilized by all members of the clan concerned. In other words, there is a sago forest for food, which is the right of each heir, and a communal forest (*sirepere*), which is a joint right. Land and forest (*sirepere*), like trees (*sago*), must be maintained.

These practices are considered by the Arfak Sougb community to be values that uphold gender equality. Therefore, allegations that customary law communities often practice gender injustice are not entirely true. Habits that develop in rural communities, one sexgender is lower than the other gender, which results in the marginalization and subordination of women. marginalization and subordination of women. The double workload has also socialized by parents to girls and boys since childhood since childhood. The introduction of this pattern of division of labor shapes the perception of of the roles of men and women in society, leading to gender inequality in education leading to gender inequality in education.[11]

The practice of gender justice carried out by the community illustrates how they carry out something that is considered right and appropriate. Based on Law of the Republic of Indonesia Number 35 of 2008 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2008 concerning Amendments to Law Number 21 of 2001 concerning Special Autonomy for the Papua Province into Law, the provinces of Papua are Papua Province and West Papua Province. Based on the weighing consideration: letter b, that the Papuan people, as God's creation and part of civilized humanity, uphold human rights, religious values, democracy, law, and cultural values that live in indigenous peoples, and have the right to enjoy the results of development reasonably.[12]

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West Papua is an important part of the history of the Indonesian Nation, which is given special authority based on Law Number 21 of 2001 concerning Special Autonomy for Papua. Special Autonomy for Papua Province is basically the granting of broader authority for the province and people of Papua to organize and manage themselves within the framework of the Unitary State of the Republic of Indonesia. Broader authority also means greater responsibility for the province and the people of Papua to organize the government and regulate the utilization of natural resources in Papua Province for the greatest prosperity of the Papuan people as part of the Indonesian people in accordance with statutory regulations. This authority also means the authority to empower the potential of customary law communities and the local wisdom values within them. The values of local wisdom in their customary law, if explored and preserved, can certainly be utilized to support development in West Papua in all fields.

When associated with gender equality, there are equations between men and women in society, namely equality to realize the fellowship of life and develop each other to humanize themselves. In an effort to eliminate discrimination against women, we need gender equality, which is the view that women and men have equal access and opportunities in all fields. Gender equality does not mean that women should be the same as men, because women are naturally different from men. Gender equality refers more to the state taking action to provide equal opportunities and rights for men and women.

The author agrees with Maidin Gultom, who explains some of the benefits of sensitivity to gender equality and justice, among others:[13]

### a. For Self awareness

- 1) Growing awareness of the ability to have equal rights between men and women.
- 2) cultivate confidence and courage to fight for justice.
- 3) Foster independence and freedom to make their own choices.

### b. For Family

- 1) Fostering awareness and behavior of togetherness to respect the rights and obligations of each individual in the family.
- 2) Fostering awareness of the importance of respecting each other's roles.

### c. For Community

- 1) Raising awareness that development can be achieved when carried out jointly in planning, implementing, utilizing, enjoying, and maintaining it in a sustainable manner.
- 2) Raising awareness of the importance of mutual respect and respect for the rights of individuals or groups.

### d. Country

- 1) Facilitate the preparation of national policies.
- 2) Facilitate the process of development from, by, and for the people

Related to how the community draws lineage based on the male line, or patrilineal. This shows that the Arfak Sougb indigenous people still emphasize that men are the head of the family. This could have an effect on life in the community. This way of drawing bloodlines has been passed down and will usually be passed on to their children and grandchildren. Based on the theory of gender equality put forward by Ann Oakley [14], differences in behavior between men and women are socially constructed, namely differences created by humans through long social and cultural processes. Hillary M. Lips, in her famous book "Sex and gender" defines gender as the cultural expectations of men and women.[15] This can be seen, for example, in that women are known as gentle, beautiful, emotional, and motherly. Men, on the other hand, are considered strong, rational, virile, and mighty. The characteristics of these traits are interchangeable; for example, there are men who are gentle, and there are women who are strong, rational, and mighty. Changes in the characteristics of these traits can occur from time to time and from place to place. In this case, the Arfak Sougb indigenous people believe that the woman chosen to be a wife is a diligent woman, not looking at her physical beauty. This view is also a gender-based view. The practice of gender justice in the Arfak Sougb indigenous community is part of their life values. Not all areas apply the same thing, and of course, further research needs to be done to see how the development of gender justice practices in the community.

## CONCLUSION

The results show that gender equality and justice in the Arfak Sougb indigenous community have been realized in daily practice. In community's life, both women and men get equal access, opportunities to participate, have control, and can take maximum benefits. Boys (*giji*) and girls (*gita/godeh*) are considered equally important. Girls (*gita/godeh*) will bring wealth in the form of a dowry (*aromoub*) when they marry (*ouhwbo*), while boys (*giji*) will continue their lineage as successors to the clan. Therefore, allegations that customary law communities often practice gender injustice are not entirely true.

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