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## IMPLEMENTATION OF ARTICLE 31 OF LAW NO.16 OF 2019 CONCERNING MARRIAGE IN THE TUKUR TRADITION TO REALIZE GENDER RESPONSIVENESS (CASE STUDY OF MODERN SOCIETY OF THE BATAK KARO TRIBE)

Aichel Jansmanta Ginting<sup>1</sup> , Ni Ketut Sari Adnyani<sup>2</sup> , Ni Luh Wayan yasmianti<sup>3</sup>

Faculty of Law and Social Sciences, Ganesha University of Education, [Email:aichelginting97@gmail.com](mailto:aichelginting97@gmail.com)

Faculty of Law and Social Sciences, Ganesha University of Education, [Email:sari.adnyani@undiksha.ac.id](mailto:sari.adnyani@undiksha.ac.id)

Faculty of Law and Social Sciences, Ganesha University of Education, Email: [nyasmianti@undiksha.ac.id](mailto:nyasmianti@undiksha.ac.id)

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#### Corresponding

Aichel Jansmanta  
email:

[Aichelginting97@undiksha.ac.id](mailto:Aichelginting97@undiksha.ac.id)

#### Author:

Ginting,

### Abstract

This research aims to determine and analyze related to (1) Implementation of article 31 of Law No. 16 of 2019 concerning marriage in the application of the tukur (dowry) tradition in the Batak Karo traditional community; (2) Customary sanctions against the Batak Karo indigenous people who do not implement the tukur (dowry) tradition. This research is empirical legal research that uses observation, interviews and literature studies. The legal materials used in this research are primary, secondary and tertiary legal materials which are useful for drawing conclusions relevant to the problems in this research. The results of the research show that (1) the Karo Batak indigenous people who live in the city have begun to die out existing traditional traditions, especially the tukur (dowry) tradition, so that there are still many gender inequalities found in household life. (2) The customary sanction obtained is that if the husband and wife do not pay the tukur (dowry) then the marriage is considered invalid by custom and also has an impact on the descendants of the husband and wife. The impact received by the husband and wife's descendants is that they are not allowed to carry out traditional marriages. Apart from that, when a husband and wife do not pay the tukur (dowry) when they die, the family is not allowed to carry out traditional death ceremonies.

### Introduction

In the implementation of traditional Batak Karo marriage, there are several rituals that must be carried out, either pre-marriage or post-marriage. These stages cannot be separated or skipped, in each stage *runggu* (consensus deliberation) is carried out. *Runggu* is the interpreter or keyword in the

# INTERNATIONAL JOURNAL OF LAW, TOURSIM, AND CULTURE

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Volume 1 Issue 2, August 2023 | P-ISSN: 2830-6546

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settlement of the customary marriage of the Batak Karo community. This means that each *runggu* will produce decisions that have been mutually agreed upon. One of the important things discussed during *runggu* is *tukur*. *Tukur* is the dowry that must be paid by the *simpo* party to the *sinereh* party. The value of this *tukur* varies, depending on the results of the agreement between families during the *runggu*. Each region has its own rules for giving *tukur*.

*Tukur* in the Karo traditional language if translated into Indonesian is buying. In traditional Batak Karo marriages there is a uniqueness where the male party will measure (buy) women from his family to become part of the male party and will be fully the responsibility of the male family. But this does not mean that it indicates that women are inferior, but rather that this *tukur* is a form of respect for the woman. Even though the woman has been bought and becomes the full responsibility of the man, she still has the right to visit her parents or relatives.

*Tukur* (dowry) is one of the strong foundations that must be fulfilled and cannot be eliminated in a traditional Karo Batak marriage. The impact is that it is not uncommon for this to be an obstacle in conducting a marriage, just because it does not match the amount of *tukur* (dowry) that the woman wants. So that the family is usually more selective in terms of choosing a mate for their child later.

In the Batak Karo indigenous community, the *tukur* tradition is applied, this *tukur* tradition is learning dowry to the woman. The purpose of giving *tukur* (dowry) is to give honor or appreciation to the woman. But on the other hand, the Batak Karo indigenous people adhere to a patrilineal kinship system. The patrilineal kinship system is a kinship system in which the child connects himself to his father based on the male lineage. In this system, the lineage is paternalistic, which means that the descendants of the father (male) have a higher position and have more rights. (Annisa, 2023)

Therefore, women in the Batak Karo indigenous community have a subordinate position. Subordinate is the limitation of women to certain activities and is seen as inferior (Laitupa, 2019). However, with this *tukur* (dowry) tradition there is a form of gender responsive appreciation. The *tukur* (dowry) tradition needs to be continued because from a human rights perspective there is respect for women. This is stated in article 51 of Law Number 39 of 1999 concerning Human Rights.

The advancement of the times and the development of science have made many developments in human thinking to be more advanced in all daily activities, the development of the times that emerged as a globalization phenomenon can make many traditions in one culture begin to experience a slow decline. The positive and negative impacts of modernization on new kinship relationships will affect the mindset and behavior of the community, in this case social groups that have been formed on the basis of strong relationships and similarities in thought and purpose. The value order of the dynamics of the indigenous Batak Karo community is also experiencing a transition or change from traditional society to modern society. Based on preliminary observations that the author has made to the city of Denpasar, the author found one informant, namely Mr. Andre Sembiring. According to Andre Sembiring, indigenous Batak Karo people who live in the city (modern society) have slowly left the *tukur* (dowry) tradition. This moistens the respect for women in the Batak Karo indigenous community began to fade.

Based on Article 31 of the Marriage Law, namely in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, the rights and position of the wife are balanced with the rights and position of the husband in household life and social life together in society. This is a reference to the indigenous Batak Karo community to internalize these almost faded values. Through this research, it is necessary to carry out the *tukur* tradition from generation to generation, because it is in accordance with the substance of article 31 of Law Number 16 of 2019.

# INTERNATIONAL JOURNAL OF LAW, TOURSIM, AND CULTURE

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Volume 1 Issue 2, August 2023 | P-ISSN: 2830-6546

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This also includes guarantees for Customary Law Communities (KMHA), especially women who have been subordinated.

Based on the above facts, the author is interested in conducting research on the tradition of giving *tukur* (dowry) to realize the principle of gender responsiveness in the Batak Karo indigenous community, and making it a paper with the title: **IMPLEMENTATION OF ARTICLE 31 OF LAW NO.16 OF 2019 CONCERNING MARRIAGE IN THE *TUKUR* TRADITION TO REALIZE GENDER RESPONSIVENESS (CASE STUDY OF MODERN SOCIETY OF THE BATAK KARO TRIBE)**.

## Research Methods

The type of research used in this research is empirical legal research. In empirical juridical research "Empirical studies are studies that view law as a reality, including social reality, cultural reality, and others" (Ali & Hellyani, 2015). The characteristic of empirical juridical research is a legal research method that seeks to see the law in a real sense or it can be said to see, examine how the law works in society (Ibrahim, J & Efendy, 2016). Departing from the gap between *das sollen* and *das sein* *lelga* trader we apply the substance of article 31 of Law No.16 of 2019 concerning marriage, but in reality it is not effectively implemented in modern society of the Karo Batak tribe, especially in the application of the *tukur* tradition.

The nature of research in this study is descriptive. As the name implies, descriptive research aims to provide descriptions and explanations of the phenomenon under study (Ramadhan, 2021: 7). This research is intended to provide data that is as accurate as possible about the situation or other symptoms. Descriptive research also aims to describe precisely the characteristics of an individual, situation, symptom or group, or to determine whether there is a relationship between a symptom and other symptoms in society. In this case the author intends to provide a description and explanation of the subject matter in detail, clearly and objectively regarding the implementation of article 31 of Law No.16 of 2019 concerning marriage in modern society of the Batak Karo tribe, especially in terms of the application of the *tukur* tradition.

Data and data sources in this research are primary data and secondary data, secondary data consisting of primary, secondary, and tertiary legal materials. The data collection techniques used in this research are interview techniques, documentation techniques and literature (Muhaimin, 2020). The sampling technique in this research is a *non-probability* sampling technique, which means using a sample of choices based on the subjectivity of the researcher and not randomized. *Non probability sampling* used is *purposive sampling (judgment sampling)* which is a sampling technique by selecting samples according to the researcher's knowledge of the research. The data analysis technique in this research is described from the data obtained both primary and secondary data. All legal materials obtained in the research, then classified and analyzed to produce conclusions from the results obtained in accordance with the problems discussed.

# INTERNATIONAL JOURNAL OF LAW, TOURSIM, AND CULTURE

Published Law Department, Universitas Pendidikan Ganesha  
Volume 1 Issue 2, August 2023 | P-ISSN: 2830-6546

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## Results and Discussion

### *Tukur* Tradition in Traditional Karo Batak Society

*Tukur* is the dowry that must be paid by the *siempo* (groom) to the *sinereh* (bride). The value of this *tukur* varies, depending on the agreement between families during the *runggu*. *Tukur* in the Karo traditional language if translated into Indonesian is buying. In traditional Karo Batak marriages, there is a uniqueness where the *siempo* family (groom) will *measure* (buy) *sinereh* (bride) to become part of the male family completely and will become the responsibility of the male family.

In the marriage ceremony there is a part called "Nggalari Ulu Emas, or Nggalari *Tukur Man Kalimbubu*". Giving dowry to the *kalimbubu*, the woman's family (Analgin Ginting, 2015). The process of determining and giving *tukur* is a negotiation between the families. *Tukur* is usually in the form of money, the value of which is determined and agreed upon at the *runggu* at the *mbaba belo selambar* or *nganting manuk* event. In traditional Karo Batak society, the value of *tukur* as a dowry is Rp.486,000, Rp.846,000, Rp.1,086,000. In the procession of *traditional work* (the day of the traditional party), whatever the value of the *tukur* that has been agreed upon beforehand, will be handed over by the groom's family delivered by *sangkep nggeluh* to the bride's family.

According to the results of interviews with traditional communities on behalf of Dameati Br Ginting explained that *tukur* (dowry) is very important in the marriage of the Batak Karo traditional community. It is said to be important because *tukur* (dowry) is an obligation that must be paid by the prospective husband to the prospective wife. The source also explained that *tukur* (dowry) is a form of appreciation to the woman. Therefore, it is rare to find traditional communities that do not pay *tukur* (dowry). According to the results of interviews with traditional communities on behalf of Ulina Br Tarigan explained that *tukur* (dowry) is something that must be paid in accordance with the law.

# INTERNATIONAL JOURNAL OF LAW, TOURSIM, AND CULTURE

Published Law Department, Universitas Pendidikan Ganesha  
Volume 1 Issue 2, August 2023 | P-ISSN: 2830-6546

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agreement and the applicable customary law. The interviewee also explained that if the tukur (dowry) is not paid then there are customary sanctions that apply. The customary sanction obtained is that if the husband and wife do not pay the tukur (dowry) then the marriage is considered invalid by adat and also has an impact on the descendants of the husband and wife. The impact received by the descendants of the husband and wife is that they are not allowed to perform traditional marriages. In addition, if a couple who does not pay the tukur (dowry) dies, the family is not allowed to perform a traditional death ceremony.

The results of interviews conducted by researchers in April 2024 to May 2024 in Denpasar have research subjects totaling 2 people. The research subjects of modern society are Mikael Ketaren aged 30 years and Andre Sembiring aged 33 years. According to the results of the interview with Mikael Ketaren, he explained that along with the times, the traditional Batak Karo people who live in the city have slowly left the tukur (dowry) tradition. The interviewee also explained that the tukur (dowry) tradition was no longer carried out because the procedures for its implementation were not efficient, both time and cost efficiency. According to the results of interviews with modern society on behalf of Andre Sembiring explained that tukur (dowry) is also considered old-fashioned and is considered not to have any difference either before or after the implementation of tukur terselubut in everyday life. There is no difference in daily life after tukur (dowry), whether it is cooking, washing, taking care of children and others that must be carried out by women. According to couples who have lived in the city for a long time, these chores are said to be commonplace for women to do because it is obligatory for women to take care of children and husbands.

## **The Application of Article 31 of Law No.16 of 2019 concerning Marriage to the Tukur Tradition of the Karo Batak Traditional Community.**

Based on its substance, article 31 of law number 16 of 2019 concerning marriage regulates the rights and position of the wife in balance with the rights and position of the husband in married life. The traditional community of the Batak Karo tribe, still carrying out the *tukur* tradition, literally fulfills article 31 of law number 16 of 2019 (in terms of fulfilling the right to receive *tukur*). In addition, tukur is also a form of appreciation to the woman.

## **Implementation of Article 31 of Law Number 16 of 2019 Concerning Marriage in the Application of the Tukur Tradition (Mahar) in the Karo Batak Customary Community**

# INTERNATIONAL JOURNAL OF LAW, TOURSIM, AND CULTURE

Published Law Department, Universitas Pendidikan Ganesha  
Volume 1 Issue 2, August 2023 | P-ISSN: 2830-6546

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According to Lawrence M. Friedman, the legal system is built on three elements that aim to implement the law in order to promote justice in society. According to Setyawati (in S. N. Ardhyala et al., 2023) through this approach, we can evaluate whether a rule of law is effective or not based on aspects. Legal substance can be interpreted as the results or products produced by people in a legal system. The substance can also be interpreted as the law that lives in society, not only the law in the legislation. But in fact the legal substance that regulates related to the tukur tradition in the Batak Karo indigenous people is only in the form of discretionary legal substance, there is no regulation of written legal substance related to the application of the tukur telrselblut tradition, blaik in traditional communities and communities that have been exposed to globalization. So that the implementation of article 31 of law No.16 of 2019 concerning marriage is still experiencing difficulties, especially in the Batak Karo indigenous people who have been exposed to globalization. Structure is the framework of a system. The legal structure in this case is a legal device that contains the number and size of courts in a country (Kusnadi, 2019). So far, the Karo Batak indigenous people only use customary law, and there is no clear fixed regulation and fixed sanctions that will be binding. In the absence of this legal umbrella, modern society has abandoned the beauty of the tukur tradition, so that it has an impact on the implementation of article 31 of law No.19 of 2019 concerning marriage.

Legal culture in this case includes the community in implementing regulations. Legal culture can also be interpreted as a *climate of social thought* and *social force* that determines how the law is used, avoided, or misused. Judging from daily life, of course, there is a big difference between traditional society and modern society. The legal culture in modern society has begun to erode along with the times, so that it has an impact on culture and culture.

## **Customary Sanctions Against Karo Batak Indigenous People Who Do Not Implement the Tukur Tradition**

Customary law in the Karo Batak indigenous community has proven its great role in regulating the life order of the Karo Batak community since hundreds of years ago. So that the term customary violation is known, customary sanctions. Violation of adat in the life of the Karo Batak community is not justified. However, if a violation occurs, it can be resolved thoroughly by giving customary sanctions and satisfying the customary community outside the Court.

Therefore, the implementation of the tukur tradition must be carried out, if not done then the marriage is considered invalid or not recognized by custom. There are some Karo people who do not carry out the tukur tradition and will still be paid later. As at the time of his son's marriage, tukur learning is done to kalimbubu (his wife's family) then continued with his son's marriage. There is also tukur paid when he dies. Karo people also carry out traditional ceremonies for death, if the deceased has not paid tukur, tukur learning will be carried out first then proceed to the traditional ceremony for death and funeral.

## **Obstacles in Implementing Article 31 of Law No.16 of 2019 concerning Marriage Against the Tukur Tradition in Modern Karo Batak Society**

Karo Batak indigenous people, especially modern people, have begun to abandon the Tukur tradition in traditional Karo Batak marriages because they think the tradition is old-fashioned and requires a lot of money. This certainly has an impact on the implementation of article 31 of Law No.16 of 2019 concerning marriage, because by not carrying out the tukur tradition, respect or appreciation for the woman is no longer carried out either. There is no traditional institution of the Karo Batak tribe

# INTERNATIONAL JOURNAL OF LAW, TOURSIM, AND CULTURE

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Volume 1 Issue 2, August 2023 | P-ISSN: 2830-6546

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that facilitates the implementation of the tukur tradition. So that the Karo Batak indigenous people, especially modern people, have begun to abandon this tradition which will have an impact on Article 31 of Law No.19 of 2019 concerning marriage. There are no written rules and sanctions to oblige the Karo Batak indigenous people to carry out the tukur tradition. So that the Karo Batak indigenous people, especially modern people, have begun to abandon this tradition. This will also have an impact on the implementation of article 31 of Law No.19 of 2019 concerning marriage. It is still very rare to find education and socialization related to the tukur tradition. Both in traditional and modern society, so that many people do not understand the existence of tukur. In addition, in the development of this era, public awareness has also begun to erode related to this tradition, this happens because there is no permanent regulation governing the existence of the tukur tradition. This will also have an impact on the implementation of article 31 of Law No.19 of 2019 concerning marriage.

## **Efforts to Apply Article 31 of Law No.16 of 2019 concerning Marriage to the *Tukur* Tradition in the Karo Batak Customary Society**

It would be good to maintain culture and customs, as well as increase young people's interest in customs and bludayla. The author feels that opening art studios is also a good solution to maintain the content of traditional values. The studios will create cultural and traditional performances. It is possible that there will be other initiatives that are good and qualified to keep the values of bludayla alive. Therefore, all initiatives must always be carried out to develop and instill teachings related to customs and culture. This is not only limited to Karo customs, but also to the customs of other tribes. Joint synergy towards cultural preservation is not closed for the common interest. Our diversity will be stronger when we continue to love and maintain our customs and culture. Everything is for our unity and integrity despite different customs and cultures. Efforts that can be made in implementing article 31 of Law No.16 of 2019 concerning marriage against the tukur tradition in modern society of the Batak Karo tribe are: Providing socialization of the importance of carrying out the tukur tradition to indigenous Batak karo people, who live in urban areas. Providing socialization about article 31 of law no.16 of 2019, to the Batak Karo indigenous people where equal rights and positions are determined between husband and wife. Providing socialization about the importance of maintaining and preserving traditions that are inherent in the indigenous Batak Karo community, one of which is the tradition in traditional marriage, namely the tukur tradition.

# INTERNATIONAL JOURNAL OF LAW, TOURSIM, AND CULTURE

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Volume 1 Issue 2, August 2023 | P-ISSN: 2830-6546

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## Conclusion

Traditional Karo Batak communities still carry out wedding traditions in accordance with the traditional Karo Batak wedding procession, and also continue to carry out the tukur tradition. Modern society of the Batak Karo tribe, began to die the traditional Batak Karo wedding procession and the tukur tradition. Because it is considered inefficient in terms of time and material. Implementation of article 31 of law No.16 of 2019 concerning marriage in the tukur tradition of the traditional Batak Karo community, based on its substance has been implemented in traditional communities through the application of the tukur tradition. Implementation of article 31 of law no.16 of 2019 concerning marriage in the tukur tradition of modern society of the Batak Karo tribe, is not well realized. Where the tukur tradition began to be abandoned, because it was considered inefficient in terms of time and cost. Efforts that can be made to implement article 31 of law No.16 of 2019 concerning marriage in the tukur tradition of the modern Batak Karo tribe are to socialize customary culture and traditions, especially marriage traditions and culture.

## Recommendations

### 1. For Local Government

In the future, written rules should be made regarding the application of the tukur tradition to preserve the tukur tradition by upholding the dignity of women without exception, both traditional communities and communities affected by globalization or modern society.

### 2. For modern society

It should not leave or forget customs, especially Karo Batak customs, especially the tukur (dowry) tradition because the tukur (dowry) is a form of appreciation for the woman.

### 3. For Karo Batak traditional leaders

To always provide understanding and direction to the local community. And if anyone violates these customary regulations, sanctions should be imposed in accordance with these customary laws.

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# INTERNATIONAL JOURNAL OF LAW, TOURSIM, AND CULTURE

Published Law Department, Universitas Pendidikan Ganesha  
Volume 1 Issue 2, August 2023 | P-ISSN: 2830-6546

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# INTERNATIONAL JOURNAL OF LAW, TOURSIM, AND CULTURE

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Volume 1 Issue 2, August 2023 | P-ISSN: 2830-6546

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