

## LEGAL CULTURE OF WOMEN IN GENDER BUDGETING (A Review of Context Bumirejo Pekalongan)

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**Abstrak:** Anggaran Responsif Gender (ARG) adalah salah satu alat kebijakan publik yang dapat mendorong perubahan sosial secara massif yaitu terwujudnya berkeadilan gender, dan perempuan memiliki potensi untuk mewarnainya, tetapi realitasnya tidak demikian. Tujuan paper ini adalah mengungkapkan fakta tentang nilai-nilai serta faktor-faktor yang menyebabkan partisipasi perempuan dalam perencanaan anggaran responsif gender di Kelurahan Bumirejo yang masih rendah, padahal jumlah perempuannya lebih banyak dibanding laki-laki. Fakta ini menarik dalam prespektif teori budaya hukum dan teori pertukaran sosial. Analisis memperlihatkan bahwa budaya hukum bernuansa negatif, karena ada nilai-nilai budaya serta pertimbangan individu berbasis pada dimensi rasionalisasi untung rugi perempuan itu sendiri. Adanya konflik serta pertarungan ideologi maupun nilai-nilai praxis tertentu yang dikukuhkan. Mereka memandang keikutsertaan dalam musrenbang adalah kegiatan yang mubazir (sia-sia), mereka bukan siapa-siapa dan aspirasinya sudah terwakili oleh PKK. Sedangkan faktor-faktor yang mempengaruhi adalah kuatnya budaya patriarki dan rasionalitas pertimbangan untung rugi dari aspek finansial (ekonomi). Riset ini bertradisi penelitian kualitatif dengan pendekatan socio legal. Riset ini menggunakan sumber data primer maupun skunder yang diperoleh melalui observasi, wawancara mendalam serta studi dokumentasi. Untuk mengecek keabsahan data digunakan triangulasi sumber data dan metode dan analisisnya dengan menggunakan model interaktif.

**Key words:** legal culture, gender budgeting, gender equality, woman participation

### **Introduction**

The third point of the objectives of the Millennium Development Goals (MDGs) is to promote gender equality and woman empowerment. This point has become an important entry point for realizing the other points, i.e.: to eliminate extreme poverty and hunger, to achieve universal primary education, to reduce children mortality rate, to improve the health of pregnancy, to fight HIV/ AIDS, malaria, and other diseases, to ensure environmental sustainability and to develop global partnerships for development. Without gender equality and woman empowerment Indonesia in all aspects of life, the problems of humanity which are the objectives of MDGs will never be completely resolved.

Indonesian Constitution, CEDAW Convention in ratified Act No. 7 of 1984, Presidential Decree No. 9 of 2000, and other organic regulations are striving to ensure equality of citizens before law and government. However, in reality, law does

Jurnal Hukum Islam (JHI) Volume 12, Edisi Desember, 2014

<http://e-journal.stain-pekalongan.ac.id/index.php/jhi>

(ISSN (p) : 1829-7382)

not automatically work in accordance with its vision and mission. The discourse of gender equality and woman empowerment are closely related to the issues of the inequality of power relations between women and other superior groups.

The inequality relation makes women eliminated and not considered important in decision-making both in the domestic and public sphere. In public sphere, for example, in local development planning (village), it is apparently that women's participation level is low. As a result, gender responsive budget of pro-equality is not realized. This policy is then reinforced also in Presidential Regulation. 5 of 2001 on The National Medium Term Development (RPJMN) 2010-2014 that establishes gender as one of the cross-field issues that should be integrated in all areas of development.

ARGs is not a separated budget for men and women, but rather a strategy to integrate gender issues in the budgeting process and to translate the government's commitments to gender equality into budget commitments. ARG consists of a set of tools of spending impact and government revenues to gender. In essence, ARG is a responsive budget to the needs of women and men and provides equal impact and benefits for women and men. Unfortunately, in reality, the concept of ARG in bureaucrats, people and especially women is relatively unfamiliar. The impact of this ignorance causes the outcomes of development programs are not gender responsive. In addition to unfamiliar ARG concept, the next problem is that women are rarely involved in formal decision-making processes for various reasons which give legitimacy of their absence.

Development programs often favor formal and are controlled by those who have stronger powers of social, economic and politic (Razavi; 2000.23). It has systemic and massive impact. Adriana Venny said that these conditions have an impact on national scale and make the Gender Development Index (GDI) of Indonesia has the lowest rank of the neighboring countries in ASEAN, the highest rank in maternal mortality rate, the drop in the level of woman participation in education and labor force and not free from the problem of malnutrition (Venny; 2006.5).

The impact of marginalization to the role of women in the decision making of development programs at all levels including at the village level is often not in favor of women (gender blind). The same condition also occurs in Bumirejo Village, the Sub-District of West Pekalongan, Pekalongan City. The development programs in Bumirejo Village are oriented dominantly to physical developments (improvement of roads, sewers, lean, etc.), while the non-physical programs related to woman empowerment are very minimal. Besides, there is no program innovation.

The appearance of this program implies that the level of woman participation in Bumirejo to fight for women's needs and interests is very low. In other hand, the number of women from 498 families reached 1017 people, while the males were only 972 people (BPS; 2013.12). This fact encourages to conduct research that will reveal further; why is woman legal culture in Bumirejo Pekalongan in their participation in gender responsive development planning low? And what are the factors that affect the legal culture?

### **Research methods**

To unravel this phenomenon, the research was based on qualitative research tradition with socio legal approach. The source of data was the primary data source obtained directly from the field, which were the women of: the boards of LPM, BKM, PKK and village officials related to the issues raised. The secondary data was the data obtained from documents, archives, books, and relevant references. For the data collection techniques and the credibility the data to obtain primary data, it was conducted in-depth interviews, focus group discussions and observation. Interviews were conducted with key informants selected by purposive sampling, which was then developed following the snowball principles. To find the validity of the data, the triangulation technique were used, both the sources and methods. To obtain secondary data, the documentation study was used. The data analysis technique used an interactive model started from data collection, data reduction, data presentation, and drawing conclusion (Matthew B. Miles and A. Michael Huberman, 1984).

### **Woman legal culture and the Identification of Constraining Factors**

Constitution and state regulations have ensured the recognition and protection of the rights of women to participate in development, ranging from planning, implementation, evaluation and obtaining benefit from the program. Therefore, the government accelerates the program of gender equality through gender mainstreaming (PUG) through Presidential Decree No. 9 of 2009. However, PUG program is still the homework for all parties involved (government, private, and public).

Encouraging women to actively participate in decision-making in public sphere was not easy because high or low level of women's participation in development highly depends on the subjective legal culture they hold (Rismawati; 2012, 59). Legal culture plays an important role in determining the effectiveness of laws and policies because legal culture is associated with ideas, moral values, beliefs, habits, expectations and behavior of a person related to the rule of law or the policy prevailing in society.

Satjipto Rahardjo viewed legal culture as a foundation for the implementation or unimplemented positive law in a society because the implementation of positive law is determined by attitudes, beliefs and values adhered. Legal culture is one of the components to understand the workings of legal system as a process, in which legal culture serves as the gasoline of justice motor. Thus, without the support of positive legal culture, a rule of law or policy necessarily cannot be realized as expected either by law makers or community as the target of law (Rahardjo; 1980.47). Briefly, legal culture serves as a normative framework of human life that will determine a person's behavior towards the rule of law, so legal culture is subjective. The subjective nature here refers to person's disobedience or obedience to a law highly depends on the legal culture he/ she holds. Therefore, it is common if legal culture is identified as fuel in functioning law within a society.

Bumirejo Village is a village with the smallest population of Pekalongan City and it is located at the South-West of and directly adjacent to Pekalongan District with the population of 1,989 people. Most people graduated from elementary and junior high school (1,201 people) with their livelihoods were mostly laborers and farmers (264 people). The previous exposure have shown that the quantity of the

female population in Bumirejo was more than the male population, but women's representation in village management structure was minimal because the managers were dominated by men. For example, in the village officials there was 1 (Kartini) out of 13 administrators, in LPM there were 2 (Sri and Juwayriah) out of 11 administrators, in BKM there was only 1 (Titik Nurmala) out of 8 administrators, in PPK there were 22 administrators (all women). Thus, there were 26 women in the organizational structure in Bumirejo.

The research findings indicate that the activity of the development planning (musrenbang) of the village held in the Village Hall lasted for 3 days. This event was attended by all the village officials, the representatives of BPD - LPM - PKK - RW, community representatives (organizations, community leaders), youth organizations and others. The activities were usually held in the evenings (Ba'da Isha) at 19:30 pm until finished.

The number of participants in each activity was approximately between 15-30 participants representing each element. Although the women who take charge in Bumirejo were 26 people, but the level of the women's participation who attended the village's development planning (musrenbang) were between 3-5 people only. They were Kartini (the village official), Sri Juwarini (the wife of the village head of Bumirejo – the chairman of PKK and also the administrator of LPM), Tutik nurmala (BKM), Mrs. Naimah (Secretary of PKK) and Hj. Maslikhah (a religious leader).

Before the meeting, the village officers usually circulated the program proposal forms to the administrators of LPM, BKM, RW and PKK to fill out the program plans. The meeting of development planning (musrenbang) was basically an event of "to fight and to share programs" of the representatives of each board. The active management representatives and those who were able to defend their program argument will color the development planning (musrenbangnya) with the proposed program budget although, in such conditions, each musrenbang program was decided based on joint decision. The decision-making mechanism was based on consensus and voting. The results of development planning (musrenbang) activities in Bumirejo village in 2013 were determined as follows:

Table: The Development Planning (Musrenbang) Results of Bumirejo Village In 2013

No	Activity Programs	Location	Volume	Financial Sources	
				Regional Budget (IDR)	Self-Finance (IDR)
1	Paving Project	RW I	80 m	8,000,000	1,000,000
2	River foundation (senderan)	RW I	80 m	7.000.000	1.000.000
3	Procurement of wheelie bin	RW I, II, III	5 unit	7.500.000	1.000.000
4	Pavement repair	RW II	1x120 m	7.200.000	2.000.000
5	River foundation (senderan)	RW II	75 m	10.000.000	2.500.000
6	Construction of the	RW III	50 m	5.000.000	2.000.000

	sewage MD 30					
7	Construction of decker plate (2)	RW III	1,5 x 2 m	3.000.000	1.000.000	
8	Procurement of waste bins	RW III	235 unit	11.750.000	5.000.000	
9	Repair of the sewage U20	RW I	705 m	37.720.000	5.000.000	
	Total			<b>97.170.000</b>	<b>20.500.000</b>	

The data above show the lack of woman representative's participation in the meeting to make the development programs in 2013 in Bumirejo village to be more oriented to physical developments and the lack of activity programs to enable women to access freely to improve their health, skills and welfare. There were only 2 programs which were assessed directly related to the needs of women in the field of environmental hygiene of households, i.e. the provision of waste bins and garbage carts procurement in the amount of IDR 19.25 million.

Both programs were not purely from the thought of women to more easily deal with the issues of domestic garbage in order to create a clean and healthy environment, but rather in order to accommodate the domestic waste management program which was an entrusted program of Pekalongan city government to grab Adipura Kencana.

The facts stated above show that woman legal culture in gender responsive budget planning in Bumirejo Village was negative. This is evidenced by the number of women representation in the development planning (musrenbang) meetings was lower (3-5 people). The presence of women at the meetings tend to be silent and passive, and they just followed the discussions dominated by men's proposal. No women who were present dared to propose pro women empowerment programs. Women's energy and thinking were wasted more to take care of the variation of consumption that would be served to the attendees of the development planning (musrenbang) only.

The low level of women's participation in Bumirejo in gender responsive budget planning actually could not be separated from woman legal culture, i.e.: the rationality considerations or the considerations of profit and loss. Most women who took charge (LPM, BKM, PKK) considered to be present or not to be present at the meeting of development planning (musrenbang) would have no effect. As a result of this understanding, the participation rate of women in the development planning (musrenbang) was lower both in quantity and quality.

They said that they were nobody, their voices had been represented by the head of PKK, being worried to be labeled talkative and demanding if women proposed many programs. Therefore, they were silent most of the time and just went with the flow. Moreover, the development planning (musrenbang) implementation was in the evening, so the female administrators would rather do domestic works at home (accompanying children to study, batik work, watching TV and taking a rest). This condition was exacerbated by the views of people who were still gender bias and still considered that the women should be only at home, especially at night. Women's affairs were only working in the kitchen. This concept was known in Javanese culture

that women are *konco wingking* (friend in the kitchen), their main duties are well, kitchen and bed.

There are two factors that lead to low woman legal culture, i.e. internal and external factors (Rismawati; 2012, 59). Internal factors are related to the values of life held by women themselves, while external factors have more to do with the social construction of society. Internal factors were the emergence of a sense of no confidence in their ability and potential. Women tend to be passive participants, silent, listeners and do not have the initiative. It is inappropriate if women speak too loud and confront others to fight for their interests.

These conditions reinforce the negative labels that women are weak creatures, always obedient, submissive, not creative, and emotional. The form of insecurity is reflected in mind constructed by women themselves, such as the fear of being labeled talkative and foolish because their proposals were not qualified and so forth. Therefore, the real enemy who makes women to be inactive in planning forums is a shadow of fear created by women themselves. In other hand, the external factors are the strength of the social construction of gender bias that places men and women unequally.

Inequality between men and women is actually rooted in the concept of sex (natural) and gender (not natural) which are equated. Gender inequalities have negative impacts especially on women who are often disadvantaged due to the misunderstanding. Incorrect understanding of the concept of sex and gender raises gender inequity, such as sub-ordinate, marginalization, stereotype, violence and double burden (DeVries; 2006.12-22). In relation with the development planning (musrenbang), low legal culture of women in Bumirejo to participate in determining gender responsive budgets with gender inequality dimension were sub-ordinate (the dimension of superior-subordinate), marginalization (marginalizing dimension) and double burden (public and domestic affair dimensions).

The dimension of the sub-ordinate was evident from the lack of female board members who came to the meeting because they did not get the permission from their husbands to attend the meeting, especially if the meeting was held at night. Besides, they felt that they had been represented by their coordinators.

The dimension of marginalization can be seen from: the number of invitations which were mostly given to men rather than women, program planning discussion was dominated by men, and women's involvement in the meeting was only intended to ensure the stability of the consumption for the meeting participants. The dimension of double burden was seen from various justification for the absence of female administrators because they wanted to take a rest after working on domestic affairs and their works the whole day (selling/ trading, batik working, farming, and teaching), babysitting, accompanying children to study, etc.

## Conclusion

The exposure above shows that woman legal culture of Bumirejo in gender responsive budgeting in development planning (musrenbang) was negative. This is evidenced by the low level of women's participation in development planning (musrenbang) in Bumirejo. The factors that caused low female participation level were internal and external.

### Gratitude and Legal Responsibility

The highest gratitude were presented by the author to Triana Sofiani and Rita Rahmawati as her partner in the Center for Gender Study (PSG) of STAIN Pekalongan who conducted the research together and served people to fight for gender equality. We delivered our appreciation to Mr. Bambang Sutrisno, BA as the Head of Bumirejo village, Mrs. Sri Juwarini, Mrs. Kartini, Mr. Sentot, PPK, LPM, BKM in Bumirejo Village who openly welcomed the author and provided the data needed. My husband, my children: Silvia and Fadhil who always encouraged me and prayed for me. This research was just a preliminary research to identify in general on woman legal culture in gender responsive budget. In the future, an in-depth collaborative research is highly required so that the results can be a recommendation for the policy makers in the levels of village, sub-district, and regional government.

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