

Dispute Resolution of Pusako Tinggi Land in Pauh IX Kerapatan Adat Nagari (KAN) Kuranji Padang City According to Islamic Law and Minangkabau Customary Law

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ABSTRACT: This article discusses the dispute resolution mechanism of Pusako Tinggi land in Kuranji Sub-district, Padang City, in the perspective of Minangkabau customary law and Islamic law. In the Minangkabau matrilineal system, Pusako Tinggi are inherited from generation to generation through the maternal line and managed by the community led by niniak mamak. This study uses a juridical-sociological approach with data collection techniques through interviews and documentation at Kerapatan Adat Nagari (KAN) Pauh IX. The findings show that KAN plays a central role in the mediation of Pusako Tinggidisputes, including tracing the genealogy and origins of the property. Islamic law becomes relevant in cases where the property is the result of personal livelihood and not a Pusako Tinggi, where the principles of faraidh apply. The article emphasizes the importance of synergy between adat and sharia through the 'urf ṣaḥīḥ approach, as well as the need for strengthening adat institutions, community legal literacy, and documentation of heirloom assets to prevent prolonged conflict. Thus, dispute resolution can take place with justice, dignity, and in accordance with the cultural context and sharia values.

KEYWORDS: Pusako tinggi;, Kerapatan Adat Nagari; inheritance dispute

INTRODUCTION

According to the Minangkabau kinship system, ranji are made according to the mother's lineage. This lineage is not only the basis of social identity, but also has an important meaning in the inheritance of heirlooms. Harta pusaka, in the customary sense, is something material that exists in a person who dies and can be transferred to another person solely as a result of his death. In this context, Pusako Tinggi are passed down through the female line, and their division and management are governed by the customary norms of Minangkabau society (Syarifuddin, 1984).

Various constitutional and statutory rules confirm that customary law, as unwritten law but always obeyed, is a manifestation of living law, which is law that grows and develops with the community. It reflects the value of justice and local norms, and is one of the sources of law that must be explored, considered and respected, especially in the practice of law enforcement in Indonesia.. In reality, customary law does have a place in the administration of justice, especially in civil matters that are deeply rooted in local values (Sulastryono & Aristya, 2011).

For Pusako Tinggi s, customary provisions that are passed down orally or

in writing through traditional customs and traditions apply, such as: *Mayik tabujua di tengah rumah, Gaduh gadang indak balaki, Rumah gadang ketirisan, Mambangik batang tarandam*.

This expression indicates that Pusako Tinggiproperty may only be mortgaged in urgent circumstances, such as when there is no money to take care of a corpse, marry off a daughter, repair a damaged gadang house, or pay for a child's education. All of this shows that Pusako Tinggiproperty is not just a material asset, but also a symbol of honor, sustainability, and social responsibility for mothers. (Amir MS, 1997).

Dispute resolution related to Pusako Tinggiproperty is carried out in stages according to the principle of naik batanggo turun, starting from the level of the kaum, suku, to the level of Kerapatan Adat Nagari (KAN). The function of KAN in the field of adat has a strong foundation in West Sumatra Province Regional Regulation No. 7/2018, which emphasizes KAN as the highest consultative body in the administration of nagari government.

However, in the context of the Unitary State of the Republic of Indonesia, which upholds the principle of legal pluralism, the Minangkabau customary inheritance system cannot stand alone without considering the norms of Islamic law as part of the national legal system. Islamic law, especially in the field of inheritance, has provided guidelines derived from the Qur'an and hadith regarding who is entitled to receive inheritance, the amount, as well as the principles of justice and clarity in the distribution of property. In Islamic law, the male line also has inheritance rights that should not be ignored.

. When the Muslim Minangkabau community faces inheritance situations, there is often an encounter between customary provisions and Islamic law. In practical reality, this leads to dialectics and even potential conflicts, especially when the matrilineal principle collides with the bilateral system adopted in Islamic law.

For example, Islamic law states that sons get twice the share of daughters (QS. An-Nisā':11), while Minangkabau custom does not grant inheritance rights to Pusako Tinggi to males from the paternal line.

In some cases, settlements are made compromisingly, for example by distinguishing between Pusako Tinggiproperty (customary) and low heirloom property (the fruits of labor during the marriage), the latter of which is divided according to Islamic law. In this context, the function of customary and religious institutions becomes very important to bridge different interests and values. This shows the importance of an integrative approach between adat and sharia in inheritance practices in Minangkabau, emphasizing the principles of deliberation, justice and the value of benefit.

Thus, the combination of customary law and Islamic law in the Minangkabau context is not always confrontational, but instead opens space for reinterpretation that is contextual and transformative. These two legal systems can be brought together at the points of social ethics, spirituality, and collective responsibility inherent in Minangkabau culture and Islamic teachings.

METHODS

This research uses a juridical-sociological approach, which examines the interaction between legal norms and social practices in society. Emphasis is placed on how legal provisions, both customary and Islamic, apply in the reality of community life, especially in relation to the settlement of Pusako Tinggidisputes (Soekanto 1986)..

Data sources consisted of two types. Primary data was obtained through direct observation and in-depth interviews with the Chairperson and Secretary of the KAN of Pauh IX Kuranji Subdistrict, Padang City, namely Mr. Suardi Dt. Rajo Bujang and Mr. Musdafirman Dt. Rajo Gucci. Interviews were conducted to explore the actual practice of dispute resolution and the role of KAN as a customary institution in

resolving Pusako Tinggiland cases (Sugiyono 2016). Secondary data were obtained from legal literature, reference books, scientific works, and journals relevant to Minangkabau customary law and Islamic inheritance law. This secondary data serves to support the analysis and interpretation of primary data (Ibrahim 2006).

Data collection techniques included structured interviews and documentation. Interviews were conducted to obtain information directly from key informants, while documentation was used to trace written records, images or official documents related to the case or customary practices being studied (Moleong 2017). Data analysis was conducted descriptively qualitatively, emphasizing the meaning of field findings, the link between empirical data and applicable legal norms, and synthesis efforts between customary and sharia aspects. The results of the analysis were compiled in the form of an in-depth scientific narrative to formulate a complete research conclusion (Creswell 2014).

RESULT AND DISCUSSION

Field Findings: Dispute Resolution Process by Kerapatan Adat Nagari

Based on the results of interviews with Mr. Suardi Dt. Rajo Bujang (Chairman of Kerapatan Adat Nagari / KAN Pauh IX) and Mr. Musdafirman Dt. Rajo Gucci (KAN Secretary), information was obtained that the authority of KAN has been officially regulated through West Sumatra Provincial Regulation Number 7 of 2018 concerning Nagari. KAN is the highest institution in the customary system to handle various social and legal issues, including issues related to sako and pusako.

In the Minangkabau customary structure, sako is intangible heritage such as titles, tribes and customary dignity, while pusako is tangible property, such as land and houses. In the context of Pusako

Tinggi s, KAN's role is not only as a mediation facilitator, but also as a decider based on customary values and social balance within the kaum. Dispute resolution through the KAN is carried out in stages: opening, trial, evidence, and presentation of conclusions.

One concrete case is the dispute between Yessy Andriani cs from the Sikumbang Tribe and Enita cs, regarding lands located in several locations in Kuranji Sub-district. The reporting party claims that the land is a harato Pusako Tinggi, which comes from their grandmother, Halimah. Meanwhile, the reported party stated that the land was the result of Halimah and her husband's personal search, so it was not included in the Pusako Tinggicategory. This dispute demonstrates the complexity of distinguishing between Pusako Tinggi and low heirlooms, especially when there is insufficient written evidence.

After a mediation process that involved gathering information, evidence, and clarifying genealogies, KAN Pauh IX concluded that the disputed land was the result of Halimah's personal efforts with her husband. Therefore, parties from the lineage who were not directly involved in the search for the property have no rights to it, even though they are still included in the seranji, sesuku, and sepandam kuburan.

Analysis Based on Minangkabau Customary Law

In Minangkabau customary law, ownership of Pusako Tinggi is inherited matrilineally, through the mother's lineage. This property is collective and managed by the kaum, with the niniak mamak as the main manager. As the traditional saying goes:

"Sabalun habis urang ka dalam, pusako indak ka anak sabatang."

(Before a person dies, inheritance is not passed on individually to children).

This principle emphasizes that the Pusako Tinggi is not an individual property, but a common property of the community. Claims to Pusako Tinggi must therefore be proven to have been acquired or left by customary maternal ancestors, and not as a result of personal effort.

In the case of Yessy Andriani and Enita, the KAN considers that not all seranji relationships automatically entitle a person to Pusako Tinggi property. If the property turns out to be the result of personal labor, then it is no longer Pusako Tinggi, and can therefore be inherited differently, even individually. Adat also recognizes the distinction between:

1. Pusako Tinggi: Property passed down from generation to generation from female ancestors.
2. Pusako Randah: Self-acquired property that can be passed on to children privately, and in some cases, may be subject to Islamic law.

Minangkabau custom strongly upholds the principles of social justice, deliberation, and balance in resolving conflicts, as the philosophy of "ka pai tampak muko, ka pulang tampak pungguang" (in deliberation, all parties are respected for their views).

Analysis Based on Islamic Law

In the perspective of Islamic law, the inheritance system is strictly regulated through the law of faraidh, which is derived from the Qur'an, hadith, and consensus. Islam emphasizes that the estate (tirkah) must be distributed fairly to the legal heirs, both male and female, in accordance with the predetermined proportions (see QS. al-Nisā': 11-12). The Islamic inheritance

system is bilateral, recognizing inheritance rights from both lines of parents, unlike the Minangkabau matrilineal system.

In the context of this case, the claim that the property came from Halimah's and her husband's personal earnings makes the property a tirkah, which must be divided according to Islamic provisions. This means that if it is true that the property is not a Pusako Tinggi, then the division should follow the principles of Islamic law, where sons get twice the share of daughters, and siblings, parents, and spouses also get a share according to their role (Syarifuddin, 1984).

However, Islamic law also recognizes the importance of evidence (bayyinah) and clarity of property status. In this case, since there were no intact papers due to the fire and burnt documents, the settlement through shurā (deliberation) as carried out by the KAN is a form of social ijtiḥad that does not contradict maqāṣid al-syarī'ah, namely protecting property (ḥifẓ al-māl) and protecting offspring (ḥifẓ al-nasl).

Islamic law also allows for 'urf or local customs that do not contradict sharia principles. In this case, the Minangkabau custom of separating Pusako Tinggi from low heirlooms is acceptable as long as it does not cause injustice to legitimate inheritance rights according to Islam. This means that customary law can coexist with Islamic law, as long as it does not arbitrarily close inheritance rights or discriminate against heirs who should receive a share.

Synthesis: The Intersection of Custom and Sharia

The findings show that in the social practice of Minangkabau society, there has been a form of dialectic between adat and sharia. When property is confirmed as a Pusako Tinggi, then customary law applies

fully. However, if the property comes from the results of individual searches, then there is a gap for the inclusion of Islamic law principles in its distribution.

In the case resolved by KAN Pauh IX, proving the origin of the property is key. By tracing the genealogy and the source of acquisition of the property, the KAN can decide whether the property falls into the Pusako Tinggi category or not. This reflects a contextual and rational approach that is in accordance with *maqāsid al-syarī'ah* in ensuring justice, benefit, and avoiding protracted disputes.

Thus, the settlement of Pusako Tinggi land disputes in Kuranji Padang City shows that customary law and Islamic law can be brought together through a social *ijtihad* approach, with KAN as the main actor bridging local norms and universal values of justice in Islam.

CONCLUSION

The settlement of Pusako Tinggi land disputes in Kuranji District, Padang City shows that the Minangkabau customary mechanism is still the main reference through the role of Kerapatan Adat Nagari (KAN) as a legal mediation institution. In the matrilineal inheritance system, Pusako Tinggi property is passed down through the maternal line and managed by the kaum, but not all parties who are seranji or sesuku are automatically entitled to the property, especially if it is proven to be the result of personal searches.

In this context, Islamic law becomes relevant when the disputed property is not a Pusako Tinggi, as the principles of *faraidh* provide for individualized and fair distribution of inheritance. The existence of custom as *'urf ṣaḥīḥ* in Islamic law can be accommodated as long as it does not contradict the values of sharia justice. Therefore, to prevent protracted conflicts, it is necessary to increase community literacy regarding the difference between

Pusako Tinggi and search property according to customary and Islamic law, strengthen KAN institutions as a bridge between customary and sharia norms, document the origins of heirlooms in writing or digitally, and develop technical regulations derived from Perda Nagari so that the process of resolving customary disputes has stronger legal certainty. With this synergy, the resolution of Pusako Tinggi disputes can take place in a just, dignified and sustainable manner.

REFERENCE

- Amir, M. S. *Adat Minangkabau: Pola dan Tujuan Hidup Orang Minang*. Jakarta: Mutiara Sumber Widya, 1997.
- Amir, Syarifuddin. *Pelaksanaan Hukum Kewarisan Islam dalam Lingkungan Adat Minangkabau*. Jakarta: Gunung Agung, 1984.
- Amir, Syarifuddin. *Hukum Waris Islam*. Jakarta: Kencana, 2006.
- Azra, Azyumardi. *Islam Substantif: Menggagas Paradigma Baru Berislam*. Bandung: Mizan, 2004.
- Bustami, M. "Tanah Ulayat dan Kearifan Lokal Minangkabau." *Adat dan Adab* 8, no. 3 (2013): 45–56.
- Creswell, John W. *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*. 4th ed. Thousand Oaks: SAGE Publications, 2014.
- Ibrahim, Johnny. *Teori dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia, 2006.
- Instruksi Gubernur Kepala Daerah Tingkat I Sumatera Barat Nomor 04 Tahun 1994 tentang Peningkatan Peranan Kerapatan Adat Nagari (KAN).
- Moleong, Lexy J. *Metodologi Penelitian Kualitatif*. Edisi Revisi. Bandung: Remaja Rosdakarya, 2017.
- Nasr, Seyyed Hossein. *Man and Nature: The Spiritual Crisis of Modern Man*. Washington D.C.: ABC International Group, 2003.
- Pemerintah Provinsi Sumatera Barat. *Peraturan Daerah Provinsi Sumatera*

- Barat Nomor 7 Tahun 2018 tentang Nagari*. Padang: Sekretariat Daerah Provinsi Sumbar, 2018.
- Soekanto, Soerjono. *Pengantar Penelitian Hukum*. Jakarta: UI Press, 1986.
- Sugiyono. *Metode Penelitian Kuantitatif, Kualitatif, dan R&D*. Bandung: Alfabeta, 2016.
- Sulastryono, dan Sandra Dini F. Aristya. *Penerapan Norma dan Asas-Asas Hukum Adat dalam Peradilan Perdata: Hasil Penelitian dan Pengabdian kepada Masyarakat*. Yogyakarta: Fakultas Hukum Universitas Gadjah Mada, 2011.
- Undang-Undang Republik Indonesia Nomor 5 Tahun 1974 tentang Pokok-Pokok Pemerintahan di Daerah.
- Undang-Undang Republik Indonesia Nomor 5 Tahun 1979 tentang Pemerintahan Desa.
- Undang-Undang Republik Indonesia Nomor 6 Tahun 2014 tentang Desa.
- Undang-Undang Republik Indonesia Nomor 7 Tahun 2018 tentang Nagari.
- Undang-Undang Republik Indonesia Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.
- Undang-Undang Republik Indonesia Nomor 60 Tahun 1958 tentang Pembentukan Daerah-Daerah Tingkat I Sumatera Barat, Jambi dan Riau.