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Portraying "Village Regulations" among Urban Community in Campago Guguak Bulek *Nagari*, Mandiingin Koto Selayan, Bukittinggi, West Sumatra

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Abstract:

Migrant workers usually come to a city for economic reason as cities are still deemed to provide much available economic opportunities. Urban communities, on the other hand, typically preserve village regulation that they specifically formulate in dealing with comers like what occurs in Bukittinggi, West Sumatra. On the basis of it, this article aims to portray the village regulation taking sample at the Campago Guguak Bulek *Nagari*, Mandiingin Koto Selayan, Bukittinggi, West Sumatra. The research problems are on the current village regulation from its establishment, form, dissemination, sanction, stratification of legal subjects, and the effect as well as how the regulation will look like in the future. This is a qualitative normative research using in-depth interview with comers who

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directly deal with local regulations as well as local communities as the one who preserve the regulation. It found that regulations at Bukittinggi emphasize protection of the local economy and socio-cultural aspect. More specifically, it aims to regulate life together, protect rights and obligations as well as social institutions, maintain safety and order, and improve community welfare. This all make the village regulation deserve for future preservation.

Keywords:

Village regulation; Minangkabau tradition; comers; discriminative

Abstrak:

Salah satu alasan perantau mendatangi sebuah kota biasanya adalah faktor ekonomi. Kota-kota besar hingga hari ini masih dianggap menawarkan banyak peluang ekonomi. Masyarakat kota, di sisi lain, biasanya memiliki berbagai aturan khusus bagi para pendatang seperti yang terjadi di Bukittinggi, Sumatera Barat. Dari situ, artikel ini ingin memotret hubungan antara aturan lokal di Bukittinggi dengan para pendatang di situ, khususnya di Kelurahan Campago Guguak Bulek, Mandiangin Koto Selayan, Bukittinggi, Sumatra Barat. Pertanyaan penelitian ini adalah seputar peraturan kampung yang berlaku mulai dari pembentukan, bentuk-bentuk, sosialisasi, sanksi, subyek hukum, dan efeknya. Selain itu, akan dilihat juga bagaimana prediksi akan 'nasib' peraturan ini di masa mendatang. Penelitian ini bersifat normatif-kualitatif dengan wawancara mendalam kepada para pendatang maupun komunitas lokal sebagai salah satu metode penggalan data utamanya. Hasilnya menunjukkan bahwa aturan-aturan tersebut menitikberatkan pada perlindungan sosial – ekonomi lokal, utamanya perihal aturan-aturan hidup berdampingan, perlindungan hak dan kewajiban, pranata sosial, jaminan keamanan dan ketentraman, serta peningkatan kesejahteraan. Inilah yang membuat peraturan tersebut layak untuk tetap berlaku hingga di masa mendatang.)

Kata Kunci:

Peraturan Kampung; Adat Minangkabau; Pendatang; Diskriminatif

Introduction

Minangkabau people have very strong engagement with their traditions and religion. They apply values of both traditions and religion in their daily life very well. At the last decade, the mix of tradition with Hinduism was then converted into Islamic custom through modification in several aspects. According to M. Nasroen, Hinduism and Buddhism entered Minangkabau in the fifth and sixth centuries CE. It had close connection with the coming of Indians into the archipelago during the fourth to the sixth centuries when pepper production became very lucrative trade commodity causing Indians' immigration to Minangkabau during the era of Adityawarman.¹

However, neither had Hinduism nor Buddhism greatly affected the local tradition and culture.² In fact, each stood alone even contradictory each other, such as the concept of matrilineal lineage, *mamak* (a mother's sibling) power over *kemanakan* (children of siblings), inheritance of high *pusako* (inheritance of a *kamanakan* from *mamak*) property for women, and so on.³ Differently, when Islam entered Minangkabau in the seventh century CE,⁴ Islamic thought had significantly affected the tradition and culture so strongly like diffusion of color and water.

Minangkabau Islamized culture is very well reflected in an adage which reads *adat basandi syara'* (customary is based on Islamic teaching), *syara' basandi kitabullah* (Islamic teaching relies on the Qur'an), and *syara' mangato adat mamakai* (all customary activities are based on Islam or the Qur'an). The strongly rooted legitimation of this custom is also crystallized in a customary *mamangan* (proverb) which reads "*indak lapuak dek hujan, indak lakang dek paneh*" (not broken because of the rain, not fading because of the heat). According to Murdan, as quoted from Ade Maman Suherman, this customary law

¹ Wannofri Samry and Azmi Fitriasia, "Fenomena Pengaruh Hindu di Minangkabau," in *Prosiding-National Seminar* (Universitas Hindu Indonesia, n.d.), 373.

² M Nasroen, *Dasar Falsafah Adat Minangkabau* (Jakarta: Bulan Bintang, 1970), 32.

³ Mardiyah Danial, "Wanita Minangkabau di Tengah Adat dan Agama (Studi Kasus Peranan Wanita dalam Pembangunan di Kecamatan Banuhampu di Daerah Minangkabau)" (UIN Jakarta, 1986), 16.

⁴ Suharman, "Sejarah Pendidikan Islam di Minangkabau," *Turast; Jurnal Penelitian dan Pengabdian* 6, no. 1 (2018): 93.

is a non-statutory one which mostly consists of cultural habit and Islamic law.⁵

The next development of the law witnessed the inclusion of unwritten customary law into the written one. According to Bushar Muhammad, the first person to use the term "customary law" was Snouck Hurgronje with *adatrecht* as the equivalent term in the Dutch. This was followed by Van Vollenhoven who used it as one of technical terms in juridical literature. Subsequently, the word is also used by Nederburgh, Juynboll, and Scheuer.⁶

As mentioned above, there found two forms of customary law, namely unwritten customary law and the written one. The former refers to culture and way of life of Indonesia that guides its people, both who live in cities and villages, in their daily life and relationship among individuals. The customary law community is bound by solidarity with the existence of equal interests and awareness on the customary law.⁷ The customary law itself is what is commonly referred as the original law. Meanwhile, the later, the written one, can be in a form of charters, king's orders, land boundaries, and so on. Comparing between both, although the number of the written one is less than the unwritten, the written one usually does not affect much on the society and is likely ignored.⁸

Customary law which was used to be natural, orally transmitted, and having no signature or stamp, has turned into a written legal obligation with various binding sanctions. The use of the unwritten customary law term itself refers to a living law as a habit that local people maintain it very well. Furthermore, according to Sri Sudaryatmi, customary law typically considers and contains religious elements in the process of its formation.⁹

⁵ Murdan, "Harmonisasi Hukum Adat, Agama, dan Negara dalam Budaya Perkawinan Masyarakat Islam Indonesia Belakangan," *Asy-Syirah Jurnal Ilmu Syariah dan Hukum* 50, no. 2 (2016): 505.

⁶ Bushar Muhammad, *Asas-Asas Hukum Adat Suatu Pengantar* (Jakarta: PT Pradnya Paramita, 2006).

⁷ Dedi Sumanto, "Hukum Adat di Indonesia, Perspektif Sosiologi dan Antropologi Hukum Islam," *Jurnal Ilmu Syariah* 17, no. 2 (2018): 184.

⁸ Sumanto, 7.

⁹ Sri Sudaryatmi, "Peranan Hukum Adat dalam Pembangunan Hukum Nasional di Era Globalisasi," *MMH* 41, no. 4 (2012): 574.

Among others, the city of Bukittinggi as a part of the Minangkabau community in one of its sub-districts has formulated customary rule which is popular as *adat* (customary) law or village regulations. It is the smallest implementation of regional autonomy policies. In a broader scope, regional autonomy is clear from the existence of regional regulations, while village regulations are rules at the *nagari* (village level in Minangkabau) which are formed from local customary structures through customary instruments. The existence of these customary rules is a development of village regulations or those at the village level as stated in Law no. 10. The year 2004 article 7 (1) related to the hierarchy of laws and regulations in Indonesia.¹⁰

The village regulation targets all people in a certain village area. Among the village rules were born by the customary apparatus of the *niniak mamak* (those holding authority in *nagari* based on social trust) are those found at Campago Guguk Bulek, Mandiangin Koto, Bukittinggi. In particular, it is an area with a significant number of Batak ethnic population compared to other sub-districts. Bukittinggi itself, according to Mardiyah Danial, has very popular tourism destinations due to its location at hilly and canyon areas. During the Dutch era, Bukittinggi was used as a stronghold to attack *Paderi* troops before it had developed as a coffee deposit place or a center of economic activities in the Minangkabau area.¹¹

The massive development of Batak ethnic group in the area of Bukittinggi and its surroundings has a very close connection with strategic geographical position of Bukittinggi on the Sumatran crossing. It lies between North Sumatra and West Sumatra and is reachable by land transportation in a relatively short time. Therefore, it is further designed as a tourism destination with various economic growing sectors, such as trade, crafts, transportation, culinary delights, and so on.

Apart of it, Bukittinggi citizens enlive their customary law very well. It is deemed as a very big capital for maintaining harmony in the society. The former minister of religious affair, Suryadarma Ali,

¹⁰Zaka Firma Aditya and M. Reza Winanta, "Rekonstruksi Hierarki Peraturan Perundang-Undangan di Indonesia," *Negara Hukum* 9, no. 1 (2018): 86.

¹¹ Danial, "Wanita Minangkabau di Tengah Adat dan Agama (Studi Kasus Peranan Wanita dalam Pembangunan di Kecamatan Banuhampu di Daerah Minangkabau)," 26.

mentioned that one concrete way for preventing, handling, and reconciling social conflicts is through social institutions living in society.¹² The institution can be in a form of norms, values, beliefs, and cultures that society recognizes them well, such as the tradition of *pela gandong* (to make people united) in Maluku, *dalihan na tolu* (balances in life) in North Sumatra, and others.

Furthermore, the effectiveness of customary law is also expected to provide rules in how people behave, interact each other, do economic activities, and other purposes, including maintaining Minangkabau customs in the midst of increasing heterogeneity of its people along with the entrance of migrant workers. Like other cities in Indonesia, Bukittinggi is also a home for regional migrant workers so there are always different tribes from local population with differences of other aspects as well, such as religions, occupation, and so on.

In a more specific way, discussion on the written customary law in response to Christian immigrants in Bukittinggi or Minangkabau area is increasingly interesting given the fact that customary law is well recognized in Indonesian state administration. It is put as one of sources of formal law in providing social institutions for community down to the lowest level like villages or *nagari* in West Sumatra. Other than customary law, Titik Triwulan Tutik enlisted other sources of formal law ranging from legislation, habit and customs, interstate agreements (treaties), judges' decisions (jurisprudence), to opinions and views of jurists (doctrines).¹³ Habit is typically mentioned by Teresia Ngutra, quoted from Achmad Sanusi, as a legal and normal source of formal law with direct recognition.¹⁴

Method

This field research was conducted using in-depth interviews with local communities, including *nigari* officials and new comers. Additionally, it also extracted data from social structure of local

¹² Suryadarma Ali, *Mengawal Tradisi Meraih Prestasi, Inovasi dan Aksi Pendidikan Islam*, (Malang: UIN Maliki Press, 2013), 40.

¹³ Titik Triwulan Tutik, *Konstruksi Hukum Tata Negara Indonesia Pasca Amendemen UUD 1945* (Jakarta: Kencana Predana Media Group, 2010), 41.

¹⁴ Teresia Ngutra, "Hukum dan Sumber-Sumber Hukum," *Jurnal Supremasi XI*, no. 2 (2016): 210.

community institutions. This research aims to reveal what the local community feel about immigrants coming to Bukittinggi. The nature of legal research on this theme tends to be practical and functional instead of ethical-speculative.¹⁵

Discussion and Result

Establishment of Village Regulations

Law is a form of socio-cultural manifestation that grows everywhere the community exists. In national level, the power of each law products is arranged hierarchically. Laws made at the lower level must not be in conflict with the laws at the higher levels. Therefore in this context, the law formulated by the BAMUS (*Badan Musyawarah; Deliberative Council*) at the *nagari* level must not contradict to the law made by the Second Level Regional Representative Council or those at the higher levels.

The hierarchal arrangement is best described at the pyramid scheme as mentioned by Shidharta and cited by Ch. N. Latif.¹⁶ At the scheme, Pancasila lies at the highest position as the ideal national law followed by principles of national law and positive legal principles consisting of legislation and jurisprudence. Subsequently is the practice of customary law when it is still alive and has not been made a statutory provision.

Practically, customary law moves from unwritten to positive written law. It is a substantial component in addition to structural and legal culture component as said by Lawrence M. Friedman.¹⁷ On this basis, according to Ni'matul Huda, the existence of customary and religious laws must have a reasonable place in enriching the development of national law.¹⁸

¹⁵ Depri Liber Sonata, "Metode Penelitian Hukum Normatif dan Empiris: Karakteristik Khas dari Metode Penelitian Hukum," *Fiat Justisia Jurnal Ilmu Hukum* 8, no. 1 (2014): 25.

¹⁶ H. Ch. N Latief, *Etnis dan Adat Minangkabau, Permasalahan dan Masa Depan* (Bandung: Angkasa, 2002), 28.

¹⁷ Muh. Sudirman Sesse, "Budaya Hukum dan Implikasinya terhadap Pembangunan Hukum Nasional," *Jurnal Hukum Diktum* 11, no. 2 (2013): 171.

¹⁸ Materi Studium General hari Rabu, 31 Maret 2021 Ni'matul Huda, "Pembentukan, Pembatalan dan Pencabutan Peraturan Daerah," n.d., 27.

Several areas in West Sumatra have tried to make *adat* as a way of bringing back Minang people, who are deemed to being far from the expectation, to where they should be. It is mainly because *adat* law is considered to be still quite strong among the community that it can influence people. This initiative is done through two ways, namely issuing customary law by promulgating it in either written or unwritten form and making it substantially included in the national law at the regional level.

Customary rules in the first way usually take form in oral regulations as found in Kapau area. It belongs to the administrative area of Agam district and is directly adjacent to the city of Bukittinggi to the north. The Kapau customary consensus prohibits its people from selling land to outside residents, moreover to non-Muslims. Meanwhile, written customary rules, among others, can be found in village regulations of Kurai area, Jorong Mandiangin, Koto Selayan, Bukittinggi.

The second way is particularly clear in some regional regulations as a part of regional autonomy in the form of regional rights, authority, and obligations to regulate and manage themselves both in government sector and the local community based on the prevailing laws and regulations.¹⁹ According to Muhtada, at 1999, Indonesia only had 4 regional regulation while at 2013, the number increased significantly to 400.²⁰ In the West Sumatra itself, the presence of regulations mainly aims to protect local culture instead of maintaining religious teaching although it is popular as *sharia* regulation. The general essence of regional regulations is to regulate coexistence, protect human rights and obligations in society, protect social institutions in society and maintain the safety and order of local communities and general welfare²¹ which is specifically characterized by the uniqueness of local culture.

Some samples of those regulation are obligation to cover *aurat* (some parts of body) for teachers and students in the Agam Regency

¹⁹ Sekretaris Daerah, "Undang-Undang No. 32 Th 2004 tentang Pemerintahan Daerah" (2004), 5.

²⁰ Muhtada, "Perda Syariah di Indonesia: Penyebaran, Problem dan Tantangannya" (Semarang, 2014), 5.

²¹ Alwi Bik, "Peraturan Daerah Syariah dalam Bingkai Otonomi Daerah," *Al-Daulah* 03, no. 02 (2013): 291.

area and Muslim dress provisions for Agam area in the Perda Kabupaten Agam No. 5 articles 3 stating that every Muslim employee and student are obliged to dress in Muslim style when carrying out their duties or attending school activities.²² They share substantial common purpose with the municipal regulation of Solok, No. 6 of 2002 regarding the compulsory Muslim dress, the appeal of the Governor of West Sumatra No. 260/421 / X / PPR-05 regarding wearing Muslim clothing to the head of the agency/office/bureau/institution/Mayor of West Sumatra, an instructions of the Mayor of Padang dated March 7, 2005 regarding the use of Muslim clothing, and regional regulation No. 20 of 2003 of the City of Bukittinggi concerning amendments to the regional regulation No. 3 of 2000 about control and prevention of community diseases. Another regulation is the requirement to be good at reading and writing the Qur'anic letters based on Perda Kabupaten Agam No. 5 of 2005 verse 3 which reads that every Muslim student in the formal education or '*kejar paket*' (national high school equivalency examination) A, B, or C must be good at reading and writing the Qur'anic letters properly and correctly.²³

The emergence of those written and formal customary rules in Bukittinggi is due to two factors, namely socio-cultural and economic factors. The former factor has very close connection with the wide spread of non-Muslim residents at the Kurai area in the city of Bukittinggi. It is deemed to cause the emergence of unprecedented new problems such as environmental uncleanliness, impolite women's dress according to customary rules which prioritize the principles of *alur* (complying with the rule) and *patut* (in line with customary procedure), alcoholic drinking, gambling, and so on.

According to Ridwan, one of Talao youth leaders from Mandiangin Koto, Salayan, Bukittinggi, the initial idea of making village regulations in the form of customary law was mainly motivated by religious factors. There found a three-floor house that the Christian Batak residents which was used to be a place of worship

²² Sekretaris Daerah Kabupaten Agam, "Peraturan Daerah Kabupaten Agam No. 6 Tahun 2005 Tentang Berpakaian Muslim" (2005), 5.

²³ Sekretaris Daerah Kabupaten Agam, "Peraturan Daerah Kabupaten Agam No. 6 Tahun 2005 Tentang Pandai Baca Dan Tulis Huruf Al-Qur'an" (2005), 7.

every Sunday. This made residents of Talao and its surroundings so angry that they came to the location to stop the activity.²⁴

Meanwhile, from the economic factor, the birth of the village regulation was due to the concern of Minangkabau community about the marginalization of indigenous people from their main economic sources. The exclusion of Betawi people from Jakarta is thought as a concrete example of how foreign entrepreneurs have succeeded in marginalizing indigenous people from their homeland. Apart of it, other secondary economic factors have played a role, such as social interaction between young Muslim generation with Christians, mixed marriage, competition for settlements, social pathology, and others.

Furthermore, feeling insecure in coping with the new situation deemed far different from the the old Minang or *tempo dulu* (older decade) community had inspired the *ninik mamak* (*nagari* apparatus) and *cadiak pandai* (community figure because of his/her knowledge mastery) in each region to form customary rules. They aim to return the Minang community into customary which substantially contains Islamic spirit or so called *buek*. However, it does not totally solve the problem because in fact, it triggers another problem because it turns out that the newly spawned customary laws also targeted immigrants as other legal subjects mingling with indigenous people of Bukittinggi.

Forms of Village Regulations in Campago Guguak Bulek Nagari, Mandiangin Koto Selayan, Bukittinggi

There are several forms of customary regulations at Campago Guguak Bulek. First is those relate to external circle, namely regulations targeted to immigrant communities, especially non-Muslims living in the customary area of Campago Guguak Bulek. This first category has three subcategories consisting of the issue of land conversion right, domicile for non-Muslim at the area, and the construction of worship house. Second is those relate to internal circle, namely rules for handling problems of indigenous community as a part of Minang people. Third is the neutral one valid for both local community members and non-Muslim immigrants.

²⁴ Ridwan, "Interview" (Bukittinggi, 2018).

On the land issues, Minang community puts the land as not only a place to live or as an economic source, but also a source of inspiration in developing culture. They consider the land as having both inward and outward function. The former functions to seek benefit for the tribe, while the later is to prohibit its people from buying or accepting pawning of other people's land outside kinship.²⁵

Furthermore, a person can be culturally recognized as a Minang person due to the ownership of *sako* and *pusako* in addition to other requirements such as having a *pandan pakubur* (grave complex in a *nagari*), *barumah gadang* (customary house of Minangkabau), tribal affiliation, and so on. In this context, land right conversion to others means eliminating one's identity as a part of Minang people and therefore it is forbidden to sell the land except for urgent needs. It is still permissible to mortgage it but not to sell it under several condition.

According to AA Navis, four factors which allow land mortgage according to Minang custom is as follow: First is when the corpse lay at the house which means a family member has passed away and the corpse is laid at the floor so that visitors can see it. Second is to establish an heirloom title. Third is when there found adult girls who are not married yet. Fourth is when *rumah gadang ketirisan* which means the leaking roof of a house.²⁶ Amir Syarifuddin assumes that the four categorization of AA Navis is for collective interests, while the concret forms of "urgent" conditions can develop by time. It is included as the urgency, for instance, to pay debt of honor, fixing rice field irrigation fees, blood debts (revenge for the killer), losses due to accidents, the costs for doing pilgrimage, and paying off common debts.²⁷

Other than that, the customary law of Campago Guguak Bulek also prohibits its people to sell their land to outsiders, let alone to non-Muslim communities. The article 34 reads: Natives who are going to sell land/buildings in the customary jurisdiction of Campago

²⁵ Siti Raga Fatmi, "Permohonan Tanah Ulayat di Minangkabau Menjadi Tanah Hak Milik," *Lentera Hukum* 5, no. 3 (2018): 420.

²⁶ AA Navis, *Adat dan Kebudayaan Minangkabau* (Kayu Tanam: INS Kayu Tanam, 1980), 152.

²⁷ Syarifuddin, *Pelaksanaan Hukum Kewarisan Islam dalam Lingkungan Adat Minangkabau*, 226.

Campago Guguak Bulek are obliged to sell it to another member of the community or a fellow native with a reasonable price. For the first step, they should announce the plan for selling in the respective RT (*Rukung Tetangga*, neighborhood association) and RW (*Rukun Warga*, hamlet) on Friday sessions for 4 times then moving the announcement in the village for 2 weeks. When no indigenous people are interested (especially those with close family line) within a predetermined period, they are allowed to sell it to parties outside the Campago Guguak Bulek customary area.²⁸

The prohibition to sell the land to certain parties, according to Ridwan, particularly relates to the situation in which productive land for farming has not been widely used as residential area in the district of Mandiangin. Some local people still live in an agrarian economy by planting rice as the focus of their family economy. The presence of customary law therefore serves to protect indigenous lands from buyers coming for other regions, especially from non-Muslim communities who tend to use the land for residence or industry.

Meanwhile, regarding with domicile and leasing issues, customary regulations prohibit non-Muslims from living in the Campago Guguak Bulek customary area. Natives, on the other hand, are also prohibit to sell their land or building to people who do not share their faith. This is clearly explained at the article 1 which reads: It is not justified to have non-Muslims residing and living in the village/customary law area of the Campago Guguak Bulek after the confirmation of this written customary law with the exception for those with legal ownership rights and a valid ownership rights certificate.²⁹

Accordingly, customary rules do not allow its people to rent out houses to non-Islamic residents as contained in the article 13 which reads; It is forbidden for home owners to lease, rent, or provide housing to non-Muslims in the customary jurisdiction of *kampung* Campago Guguak Bulek. Violators will be subjected to a maximum fine of 30 sacks of cement or of a price.³⁰ The regulation is furthermore

²⁸ Tim Niniak Mamak Campago Guguak Bulek, "Undang-Undang Hukum Adat (Peraturan Kampung) Campago Guguak Bulek Jorong Mandiangin Nagari Kurai" (2014), 4.

²⁹ Bulek, 1.

³⁰ Bulek, 3.

valid for those who already rented a house for non-Muslim before the customary had been confirmed. The article 14 of the customary land then continues that it is forbidden for rented homeowners to extend the contracts/leases to non-Muslims since the *campuang* regulations of Campago Guguak Bulek were confirmed. Violators will be penalized with a fine of as many as 30 sacks of cement or as much as possible.

Lastly, the customary law of Cimpago Guguak Bulek prohibits the establishment of worship houses or organization of religious activities other than Islam. This is explicitly mentioned at the Article 2 of the constitution which reads; it is not allowed to establish worship houses or organize religious activities contrary to Minangkabau customary philosophy "*adat basandi syara', syarak basandi kitabullah* (Islamic religion)" in the customary jurisdiction of *kampuang* Campago Guguak Bulek.³¹

Comers in Mandiangin Koto Selayan subdistrict of Bukittinggi city are non-Muslims from Batak as the largest, Nias, Chinese and Java. The last three mentioned ethnics previously lived in harmony with indigenous people. Their interaction run well and they furthermore complemented each other as a global community. Local people, for instance, need Chinese when buying goods with relatively cheaper price compared to the offer of indigenous merchants themselves. There is even one village in the center of Bukittinggi called *Kampung Cina* that still exists to this day. Meanwhile, the Nias tribe fulfills the needs of brick entrepreneurs in terms of labor and is spreading at almost all corners and suburbs of Bukittinggi.

The social problems had just appeared after a number of Batak Christians inhabited the city of Bukittinggi. It was known that some Batak Christians routinely organized a weekly hidden Mass at a house of a Batak citizen named Maria in Talao area that made indigenous people insecure. It then triggered the release of customary law written in the area of Campago Guguak Bulek. Additionally, some other problems made the condition worse and widen the gap between two groups, namely sleazy environment, land invasion, tribal dominance in a residential neighborhood, letting dogs to walk randomly in a real estate housing, and so on.

³¹ Bulek, 1.

This background then leads to prohibition for comers to live or domicile in the Campago Guguak Bulek area of Bukittinggi city at general, although the real target is actually the Christian Batak tribe. Some indigenous people of Bukittinggi even frankly expressed their regret and disappointment for formerly converting land ownership rights to non-Moslem Batak citizens. At the same time, they appreciate the presence of village regulations in Cimpago Guguak Bulek Bukittinggi city.³²

According to Mr. Sidi, for example, the widespread of Christian Batak citizens settling in Minangkabau area is inseparable from their success in obtaining land ownership. He thinks that those who succeeded in buying the land at *nagari-nagari* in West Sumatra will keep buying for the land more and more. Once some land is sold, as he assumed, they will buy more at the surrounding until they can control the area.

He furthermore assumes that Christians will establish a worship house namely a church in their area as he saw the construction of a church at Pasaman area, the border between West and North Sumatra. The worship house, according to him, is built not based on the needs of Christians, but for claiming more religious power even though knowing that the building is not that ideal as a worship house. In short, he thinks that for Batak Christian migrants, the success of obtaining land is a major and first capital in building economic, religious, and inter-religious forces from North Sumatra.³³

According to him, non-Muslims should not come in and live among Muslim community because Minangkabau customary originates from Islamic teaching. As he assumes, *niniak mamak's* initiative to fortify Islamic faith is a good and compatible way with the spirit of tradition originating from Islamic teaching.³⁴ This is in line with how Harsja W. Bachtiar argues that there are three laws in Minangkabau that its people obey to, namely customary rules, Islamic rules, and national cultural rules.³⁵

³² Interview on Friday, January 9th 2018 Ridwan, "Interview."

³³ Interview on Wednesday, February 7th 2018 Pak Sidi, "Interview," 2018.

³⁴ Interview on Tuesday, February 7th 2018 Sidi, "Interview."

³⁵ Harsja W Bachtiar, *Pengaruh Adat Istiadat Minangkabau terhadap Kehidupan Wanita dalam Mengembangkan Budaya Bangsa*, Kumpulan N (Jakarta: Yayasan Bunda, 1983), 13.

Meanwhile, Yessi who lives in Inkorba (a part of Guguak Bulek area) said that when a Muslim resident wants to sell his/her land, it must be offered to the common Muslim residents of Inkorba first. If no one buys it, it may be offered to Muslim residents out of Inkorba at the same price. If any resident is known to sell the land to non-Muslim residents, they will be subjects to customary sanctions based on the applicable provisions.³⁶

On the other hand, if anyone from outer circle of Guguak Bulek wants to buy land in the customary area, he/she can do *manyuruak* (hide) by doing *malakok* (passing through customary process to be a part of Minang people) to the indigeonius tribes overthere. A precise rule has been set as the basis for permitting land transaction, such as the presence of *mamak*, *sumando* (son in law), relatives, or other family members who dispose of their presence in the customary area of Guguak Bulek or as popular by *adat diisi limbago dituang* (Minang people need to do daily activities based on the customary habit).

This means that new comers must also comply with the existing rule among indigenous people. The *mamak* who was left behind is those who will also be found as popularly known as *kamanakan batali budi*. According to H. Datoek Toeah, *kamanakan batali budi* is a niece or nephew who comes from outside areas yet wishing to have a *mamak* in the area they live in. This kind of *kamanakan* is the same as the term *kamanakan angkat* (adopted niece/nephew).³⁷

Dissemination of Village Regulations in Campago Guguak Bulek, Mandiangin Koto Selayan, Bukittinggi

Village regulation is a customary rule that grows and develops along with the dynamic of time. The birth or *buek* or customary law itself is inspired by *urang nan ampek jinih* (four unsures of customary maintainer)'s concern about the fading customs in the midst of massive socio-cultural developments. In Minang tradition, *buek* belongs to the third form called *adat nan teradat* (customary law in

³⁶ Interview on Friday, February 27th Yessi, "Interview" (Bukittinggi, 2018).

³⁷ Toeah, *Tambo Alam Minangkabau*, 80.

nagari level).³⁸ It can either exist or disappear based on the needs of a certain area as clear at the following proverb;

Lain padang lain belalang
Lain lubuk lain ikannya
Cupak sapanjang batuang
Adat salingka nagari

Furthermore, other adages also imply that the existence of customary rules in a specific area does not always do the same in other territories, including those valid in a certain *luhak*, *nagari*, or *kelarasan*. One of adages is as follow:

Di mana sumur digali di situ ranting dipatah
Di mana bumi dipijak di sana langit dijunjung
*Di mana bumi dihuni di sana adat dipakai.*³⁹

The village regulation at Campago Guguak Bulek in the area of Mandiangin Koto Selayan Bukittinggi sub-district was firstly arranged in August 2012. It then finished on December 22 and got confirmed two years later on January 14, 2014, based on the agreement among *ninik mamak* members of Campago Guguak Bulek. Next, it is disseminated in public places, including being recited in mosques before the preacher gets to the pulpit on Friday sermons. Once the dissemination gets done, it is recognized that people have already known the rule so the violators will get punished.

Practically, there are 6 (six) places which apply village regulations. They range from Sarojo, Guguak Randah, Guguak Bulek, Talao, Ingkorba, to Bantodarano areas in the sub-district of Mandiangin, Salayan, and Bukittinggi.

Sanction against Village Regulation at Cimpago Guguak Bulek

Effectiveness of any legal products can mainly be measured from its material and philosophical background. Another significant factor is how targetted subjects or indigenous institutions apply the law in term of punishing the violators. Minangkabau people believe that the law should treat all citizens the same regardless of social stratification in the society. It must be the same both for the

³⁸ Amir Syarifuddin, *Pelaksanaan Hukum Kewarisan Islam dalam Lingkungan Adat Minangkabau* (Jakarta: Gunung Agung, 1984), 144-46.

³⁹ Datoek Toeah, *Tambo Alam Minangkabau* (Bukittinggi: Pustaka Indonesia, 1976), 262.

downward and upward as clear at their proverb reading "*tibo di mato indak dipiciangkan, tibo in paruik indak dikampihan*" (what coming to the eye is not closed right away, what coming to the stomach is not deflated immediately, an appeal to be fair for all people).

In the context of village regulation at Cimpago Guguak Bulek, several sanctions for its violators have already been arranged based on the customary law. First is social warning as the lightest one. Second is fine. Third is announcing the rule breaking at the mosque or through written announcement at the notice board of the *nagari*. Fourth is exclusion and expulsion from the village. Fifth is revocation of social position or *pusako* title.

Moderate and serious violations of the village regulation are punished by fines, namely giving cement. The lightest fine is giving 10 sacks of cement or the equivalent of that while the heaviest is 500 sacks of cement. If the violators do not pay the fines, their cases will be announced formally at the mosque or at notice board of the village. If the condition remains the same, they will be excluded from community social activities or even worse, namely through expulsion from the customary territory during 5 years. Sanctions are therefore applied hierarchically from the lightest to the heaviest. If the violators repeat breaking the rule, the sanction can be sentenced repeatedly as well.

On the other hand, if the violators are one of traditional officials such as *niniak mamak*, *nagari* or *kampung* officials, youth leaders, heads of RT or RW, and others, the punishment might be in three-fold sanction. Other possibilities range from removal of position, revocation of traditional titles to announcement to the public.

From the perspective of absolute competence of the law, the customary laws do not take up positive jurisdiction. In the event of a criminal act of theft, for example, the customary law serves to solve the problem traditionally through replacing the stolen goods. After that, the case will be processed based on Indonesian law, namely what the Article 19 stipulates. Furthermore, the customary law of Cimpago Guguak Bulek also does not regulate sanction on the persecution that causes injury or death as well as other criminal acts. They are included as the subject of absolute competence of positive law as regulated in the Criminal Code.

The current customary law of Cimpago Guguak Bulek generally focuses on social shame for committing customary violations in addition to the fine sanction in order to provide the deterrent effect to violators and people at general. Meanwhile, its sanctions are also different from classic Minangkabau legal sanctions in the past which were called *nan duo puluh* (twenty) customary criminal laws. Eight of them were material crimes which mentioned the types of crimes and their legal sanctions, while the other twelve are formal law (criminal procedures) on its settling procedure.⁴⁰ The penalty for stabbing or killing a person in the classic customary crime rule, for example, was killing the violators. However, this classical customary law is certainly no longer valid when the government has been proactive in protecting people security through the whole legal instruments.

This kind of communally criminal sanction in Minang community is considered more effective in keeping individuals away from committing violations. The concept is more less the same with criminal responsibility procedure in patrilineal kinship which is imposed on clans/tribes, although it goes in reverse among Minang community with the maternal line. The bond of solidarity from *nan saporui* (relatives from motherly line) is very strong. Each individual has a role up, down, and sideways. The first role is like voting rights in appointing the chief or deposing him/her because of disgraceful actions, the second is like *mamak's* responsibility to *kamanakan*, and the third is like a habit of working together in the funeral or condolence ceremony.

The last point is clear in a customary adage which reads *kaba baik baimbauan, kaba buruak bahampuran* (good news will be well announced, while the bad ones need no announcement because people will immediately come for giving help). When an engagement ceremony is going to be carried out, for example, division of labor will be distributed to the extended family members. However, when a bad thing happens, such as when anyone passes away, all parties will take part in organizing funeral and condolence ceremony without being invited.

⁴⁰ M. Sanusi Latief, "Gerakan Kaum Tua di Minangkabau" (IAIN Jakarta, 1988), 28.

Another relevant adage reads *hati gajah samo dilapah, hati tungau samo di cacah. Indak samo dicari, ado samo dibagi* (big profit will be shared so that everyone gets much portion respectively and so does the the small profit. Everyone shares the same in both profit and lost). Including is accountability on any disgrace action committed by a member of the tribe. When a *kamanakan* commits something disgrace, his/her *mamak nan saparuik* can take action by removing the betel out from its stem. However, if *kamanakan* commits adultery, punishment will be given by getting him/her banished from the community with a chance to be still accepted by the closest people based on the consideration of his/her *mamak ninik*.⁴¹

However, Iskandar Kemal mentioned that pulling betel out from its stem is actually contrary to the moral norms. This is because it symbolizes revocation from the origins. Once *mamak of nan saparuik* firmly did his/her non-formal duties by going to the customary head⁴² for reporting the condition while carrying betel leaf and telling that his/her *kemanakan* had been plucked from the stem like a betel leaf, *kamanakan* have culturally been separated from the *paruik* relationship.⁴³

Stratification of Legal Subjects in the Village Regulations of Cimpago Guguak Bulek Bukittinggi

Local customary rules do not put legal subjects at the same status. It divides the subjects into two forms, namely general public and special communities. The former covers indigenous communities, migrants who live in customary areas either Minang people themselves or non-Minangkabau residents, and non-Muslim citizens whose existence is recognized by customary law. It also includes residents who live either permanently or temporarily in the

⁴¹ Alfadrian, "Eksistensi Hukum Adat Minangkabau dalam Penerapan Sanksi Denda terhadap Pelaku Zina di Nagari Limo Kaum Kecamatan Lima Kaum," *JOM Fakultas Hukum Universitas Riau* 6, no. 1 (2019): 9. Basyral Hamidy Harahap, *Greget Tungku Rao* (Jakarta: Komunitas Bambu, 2007), 109.

⁴² Iskandar Kemal, *Pemerintahan Nagari Minangkabau dan Perkembangannya, Tinjauan tentang Kerapatan Adat* (Yogyakarta: Graha Ilmu, 2009), 57.

⁴³ Hafizah, "Pergeseran Mamak Kandung Dalam Pelaksanaan Adat Minangkabau pada Masyarakat Jorong Batu Badinding Nagari Limo Koto Kecamatan Bonjol Kabupaten Pasaman," *Jurnal Ilmu Budaya* 16, no. 1 (2019): 36.

customary area and those who pass through the Cimpago customary area. When there found a traveller who used "too loud exhaust", he or she can be a subject of sanctions based on the applicable customary law as regulated in article 31

Meanwhile, special communities as the later are those with social position which can be categorized into three. First is as *niniak mamak* in a customary environment such as *datuak* (the highest customary chief), *panungkek*, (a vice of *datuak*) *malin* (those with Islamic knowledge mastery), and *sutan* (helper of the *datuk* in handling his jobs). Once they violate the regulation, the customary functional positions that they are assigned to enables them to get heavier sanction than *kamanakan* children they underwrite. *Niniak mamak* and their apparatus who violate regulation are subjects to a sentence of 3 times heavier than punishment of ordinary citizens, including the dismissal of traditional positions in the customary functionaries of *kampung* or *pusako* attached beforeward. Additionally, revocation of positions and titles might also take place then continued by announcement of the case in public.

Second is a number of people with structural position in the customary environment, such as youth leader and apparatus, head of security and its apparatuses, head of *RT* and *RW*, and head of the youth mosque organization. Violating the regulation will cause them to get two- fold heavier sanctions than ordinary people. The sanction can be then followed by the dismissal of the position held. Third is people who keep participating at the events organized by people with the heaviest sanction or other heavy ones. They are punished to pay fine of 15 sacks of cement or an equivalent amount. Therefore, ordinary people or those who do not hold any position in the customary area as village officials or such are treated the same in obtaining legal sanctions.

Interestingly, Muslim in Talao area who violate the customary regulation and therefore are subjects to sanction are not involved in public activities, such as not being invited to work together and not being visited when passing away. This means that customary sanctions in the form of social exclusion are treated based on existing customary provisions of each area.

The Effect of Village Regulations in Urban Community Relationship at Bukittinggi

The decision of *niniak mamak* to formulate customary laws in Mandiangin sub-district, including those at Cimpago Guguak Bulek, aimed to solve the real problem occurring at the regional level. The established customary decision is then valid with binding power for those who live in the territory of Cimpago Guguak Bulek customary area, including non-Muslim citizens who have been recognized by custom. Into some extent, it seems that the customary regulation works well in making harmony social relationship among urban communities.

According to Ridwan, when a family of Bataknesse in Talao held a wedding party, they asked *Parik Paga Nagari* (a local youth organization) to secure and arrange parking around the party location. *Nagari* officials were invited to welcome guests, while Muslim neighbours are also invited to the party. They set the second floor for Muslim community to have meal with special equipments, while the first floor was for Batak Christian community with their specific menu and table equipments as well.⁴⁴

The participation of local community in succeeding non-Muslim Batak party event shows a harmonious multicultural relationship. Each part has a sense of understanding in accepting customary laws which regulate the lives of both residents and migrants. Potential of social tension between Muslims and Christian is deemed to disappear when such activities involving many residents were carried out, such as cooperation, environmental sanitation parties, and others.

Another informant, Mr. Sidi who has lived in Bantodarano for a long time, also gave the positive response to the living customary regulations in Guguak Bulek. Accordingly, Yesi who has lived for 35 years in the Inkorba area revealed that implementation of customary law or *buek* in the Mandiangin area has been disseminated since January 12, 2014. People have shown no rejection as also clear from their positive response by emptying the houses which were previously rented to non-Muslims.

⁴⁴ Interview on Friday, January 9th 2018 Ridwan, "Interview."

Meanwhile, Masdiwar, a former member of KPU (*Komisi Pemilihan Umum*; Committee of General Commission) Bukittinggi who lives in Talao mentioned that since the establishment of customary law for Cimpago Guguak Bulek area, there have been significant changes. The natives live peacefully while their land is well protected from immigrants. Non-Muslims communities, particularly from Nias, still live temporarily at the area and typically come and go as brick labors instead of buying indigenous land to live in.⁴⁵

Anoter example is Pasaman area which, according to Muchtar Nai'm as quoted by Basyral Hamidy Harahap, can be considered successful in facilitating acculturation and assimilation between Minang and Mandailing tribes as those in the Cubadak and Simpang Tonang. As the comers, Mandailing people generally accept matrilineal kinship but still retain distinctive features of their original culture. If there is a marriage between these two tribes, for instance, they will make agreement on which custom to use. Neither does exist conflict between both.⁴⁶ Futhermore, acceptance of Minangkabau people to Mandailing as a part of the Minang custom can be mainly seen from the appointment of *urang nan ampek jinih_as datuk* from Mandailing tribe as happened in Durian Tinggi.⁴⁷ This appointment is a part of local wisdom which also strongly characterizes local community's reflection.⁴⁸

The Future of Village Regulations in Multicultural Societies

The customary law in Campago Guguak Bulek is substantially rooted from Minangkabau customs. Its establishment in urban communities like Minang people is actually problematic considering that it is typically the same as enforcing local identities in a pluralistic society. On the other hand, tourism department has a big plan to attract local or foreign tourists to Bukittinggi tourism destination. The

⁴⁵ Interview on Friday, May 1st 2018 Masdiwar, "Interview," n.d.

⁴⁶Basyral Hamidy Harahap, *Greget Tungku Rao* (Jakarta: Komunitas Bambu, 2007), 109.

⁴⁷ Kemal, *Pemerintahan Nagari Minangkabau dan Perkembangannya, Tinjauan Tentang Kerapatan Adat*, 289.

⁴⁸ Eko Noer Kristiyanto, "Kedudukan Kearifan Lokal dan Peranan Masyarakat dalam Penataan Ruang di Daerah (Local Wisdom Position and Role of Society in Spatial Planning in the Region)," *Jurnal Rechts Vinding* 6, no. 2 (2017): 161.

same effort was also carried out by regional government by inviting entrepreneurs to invest their capital in building industries for generating regional income and reducing unemployment rate on local, regional, and even national scale.

On the other hand, it is generally deemed that Minangkabau socio-cultural assets remain as one of archipelago's wealth that also deserves for consideration. In this context, the village regulation is a clear instrument for maintaining the local custom. Therefore, both local government and community keep doing efforts to preserve the Minang tradition. They routinely organize appointment ceremony of community leaders attended by regional heads such as regents or mayors, preserve *rumah gadang* (Minang traditional house), hold customary density starting from the provincial level to the village level, and so on.

According to Mr. Sidi, it is not fair to say that non-Muslims coming to Minangkabau as Islamic territory get discriminative treatment because the customary laws of each region are different due to each local wisdom. Moreover, the same condition happens among Muslim who want to buy the land in Flores region, East Nusa Tenggara which is predominantly Christians and in Bali with Hindu as the religion of its majority. This shows that each place respectively tries to protect its local culture from outer influences in the context of preserving local and distinctive socio-cultural aspect of each.⁴⁹ It clearly seems, therefore, that village regulation will maintain well in the future though modification and innovation might occur.

Conclusion

Various data on the village regulation at Campago Guguak Bulek ranging from its establishment, form, dissemination, sanction, legal subject stratification, to its effects reveal how established the regulation is. Instead of giving discriminatory treatment for comers, the village regulation is in fact a clear way to unite Minang people which are considered to begin leaving their cultural values in addition to maintaining one of archipelago's cultural wealth. Combination of strong implementation among indigenou, respect and obedience of comers, and its inclusion at formal regional regulation make it

⁴⁹ Interview on Saturday, February , 7th 2018 Sidi, "Interview."

compatible as the living law which will remain valid in the future. Any modification and innovation, however, are probably found as a customary adage says "*dima bumi dipijak di sinan langik dijunjuang*" (obligation to adjust behavior to where a person lives in).

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