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**RECREATING THE  
*NAGARI*:  
DECENTRALISATION  
IN WEST SUMATRA**

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## Recreating the *nagari*: decentralisation in West Sumatra<sup>1</sup>

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### Abstract:

The paper deals with the process of decentralisation in West Sumatra and the stage it reached in early 2001. In West Sumatra the process of decentralisation has a particularly dynamic and interesting character. Along with the general decentralisation of central political authority and economic resources to the districts, a fundamental restructuring of local village government has been initiated. The policy of regional autonomy has been taken up “to return to the *nagari*”. *Nagari* is the name of the traditional, pre-colonial political units of Minangkabau political organisation. Despite all changes and transformations during the colonial period and since Independence, the *nagari* and *nagari* government have remained firmly associated with Minangkabau political identity. This changed rather dramatically, when the Law on Local Government of 1979 introduced the uniform model of the *desa* as the lowest level of local government. The former *nagari* were split into several *desa*, administered by *desa*-heads embedded in the strictly hierarchical administrative system. When decentralisation became a major issue in Indonesia under the *orde reformasi*, this was taken up to abolish the *desa* system and go back to the *nagari*. The paper discusses the new role of *adat* and *adat*-leaders and councils within these political units vis-à-vis religious and governmental authority and ideals of bottom-up democracy and community rights. Decentralisation and the return to the *nagari* has led to a new interest in *adat* as a legitimation of political authority and rights to natural resources. The process is not only interesting for those interested in West Sumatra and Indonesia. It is of wider interest for the anthropology of law, because it is a current example of a changing constellation of legal pluralism induced by decentralisation policies.

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## I. Introduction

With the fall of the Suharto regime, Indonesia has entered a dramatic political era. It is characterised by a wider range of political freedoms, but also by high political instability. In many of the islands outside of Java, independence movements, civil and religious wars and more or less violent forms of ethnic cleansing have erupted, a response to an autocratic regime that had consistently accumulated wealth and power in the centre and had paid too little attention to the needs and wishes of other regions.<sup>2</sup> Claims for political and financial autonomy had become so loud that they no longer could be ignored. This development coincided with and accentuated a deep monetary crisis, which finally brought down the Suharto regime. The IMF and World Bank were called in to find a way out of the complete collapse of trust in Indonesia's financial institutions. They not only forced Indonesia to design a structure for control and accountability for the financial system, they also pushed for a restructuring of the state administration to make it leaner, more effective and more democratic. Among the measures was a substantial reduction of the state apparatus at all levels, combined with a policy of decentralisation. It was hoped that a decentralised state structure would bring decisions closer to the people and make it more flexible in order to cope with regional differences. Thus, the pressure towards decentralisation came from within Indonesia, notably from the richer regions, and from outside, from international organisations strongly committed to decentralisation as a means to enhance democracy, efficiency and economic responsibility and accountability. While several provinces have been calling for a great degree of autonomy, openly or implicitly threatening with secession, the Habibie government, which enacted two laws on decentralisation in 1999, decided to target lower administrative levels, the district (*kabupaten*) and municipalities (*kota*) and the village, as the key levels of autonomy, bypassing the more powerful and potentially more dangerous provinces.

While the decentralisation laws have received much attention in Indonesian politics and the (inter)national academic debates<sup>3</sup>, rather little is known about the ways the general policy frameworks are being implemented and dealt with at regional levels, especially at district and village levels (Antlöv 2001). This paper intends to take stock of the developments in West Sumatra, one of the front running provinces of decentralisation.<sup>4</sup> Not only have authorities at different levels taken up the economic and political challenges and chances of decentralisation but decentralisation has also triggered off a reorganisation of local government. As we shall describe in more detail later, local government during the colonial and post-colonial time until 1983 had been based on the *nagari*, the traditional Minangkabau village organisation. This was then replaced with a system based on smaller administrative villages, *desa*. While the

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<sup>2</sup> For accounts of the interpenetration of political and economic power during the Suharto regime, see Robison 1986, Rachbini 1999.

<sup>3</sup> Usman 2001, Hidayat 2001, Booth 2001, Anwar 2001.

<sup>4</sup> Our research was carried out in cooperation with Andalas University in Padang. We gratefully acknowledge the help and stimulating suggestions of Prof. Dr. Aziz Saleh, Alfian Miko MA, Erwin MA, Prof. Dr. Syahmunir, Prof. Dr. Syofyan Thalib, Narullah Dt. Parpatiah nan Tuo SH, MA, Dr. Takdir Rahmadi, and Tasman SH.

*nagari* in classical indirect rule style was largely based on Minangkabau *adat* – a collective term for Minangkabau law and customs – the *desa* were purely administrative villages. With decentralisation, the province of West Sumatra is now returning to the *nagari* system. As we shall see, these developments change the political and economic relationships within villages, between villages and higher administrative levels and lead to new political alliances and to new forms of exclusion and inclusion.

We shall focus on two aspects of these processes. One is the change within local government organisation, the newly emerging and partially established forms of legitimacy of political representation and decision-making powers. In this process, *adat* is mobilised by traditional local elites who hope to regain some of their traditional power. But *adat* is also considered to be a grass roots system, something close to the local population, which is looked upon favourably from a perspective of good governance among donor agencies such as the German Agency for Technical Cooperation (GTZ) or USAID, which are increasingly active in supporting the process of decentralisation by offering training facilities. However, the widely shared interest in *adat* should not obscure the high diversity among regions and villages in concrete regulations. As will be explained below, going back to a *nagari* structure can mean very diverse things. In the political negotiations within villages, various actors try to secure their interests by referring to their specific reconstruction of history and *adat*. The other is the revitalisation of *adat* as the basis for economic claims to natural resources on the village territory. A process of revitalisation is taking place in which the history of *adat* based rights to local authority over persons and natural resources is “actualised” (Giordano 1996, F. and K. von Benda-Beckmann 2001b). These processes also affect the constellation of legal pluralism in Minangkabau and the relative significance of state law, Islamic law and *adat*. This is accompanied by a process of an increasing localism in which ethnic identities acquire more relevance than during the past.<sup>5</sup>

These processes are still in full swing. There are serious forces that would like to weaken and change decentralisation, leaving greater powers to the central government and the provinces. The most recent change, the demotion of President Wahid and the installation of Megawati Soekarnoputri as President may have far reaching consequences, since Megawati is said to be much less attracted by decentralisation and to favour a strong central state. She may also occupy a different position than her predecessors, Habibie and Wahid, towards the external pressure applied by donors. While there is still strong and unrelenting pressure for more regional autonomy from within the country, especially from the economically strong regions, the stage seems to be changing internationally. Development analysts seem to have lost some of their earlier enthusiasm for decentralisation in light of the problematic evidence brought forward to date, and there have been voices calling for more restraint. It is very difficult to predict what the situation will be like a year from now. Our findings are therefore very preliminary, all the more so because we are in the middle of a new research project on these issues ourselves and can only trace the process until mid-2001 (F. and K. von Benda-Beckmann 2001a, b).

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<sup>5</sup> This has also been reported from other parts of Indonesia, see Li 2001, Acciaioli 2000.

We shall first describe the general framework of decentralisation and the way this works in West Sumatra at the level of the districts (section 2). Then follows a section on the political processes leading to the “return to the *nagari*” with an account of how this has been received at district and *nagari* levels (section 3). We shall then discuss in more detail the new political organisation and legitimation of the new *nagari* government (section 4). We then focus on the political struggles in the process of reconstituting the *nagari* in their former territorial boundaries (section 5) and continue with a section on the struggles over natural resources and the shifts in significance between rights based on state law and on *adat* (section 6).

## II. Decentralisation in West Sumatra: the general context

### 1. The new structure of regional autonomy

The new regional autonomy structure is based on two laws, Law 22 of 1999 on “Regional Government” and Law 25 of 1999 on the “Fiscal Balance Between the Central Government and the Regions”. These laws aim at promoting a more democratic structure and combat corruption, collusion and nepotism, by decentralising and deconcentrating powers that had been strongly centralised in a large number of ministries and their regional offices (*Kantor Wilayah, KANWIL*) in the provinces and districts. In the new structure, only five major central ministries were to be maintained: Foreign Policy, Monetary and Fiscal Policy, Justice, Religious Affairs, and Defence. In addition, some other services and functions were retained at the central level, such as the national administration, national macroeconomic development planning, the policy for strategic technological development and the development of human resources and national resource conservation.<sup>6</sup> The other ministries at central level were to be dissolved, and their regional offices transformed and fused with the administrative civil services (*DINAS*) of the regions.

The law names the provinces and the districts and towns (*Kotamadya*) as the new autonomous regions, but focuses particularly on the districts and towns to which much of the earlier centralised powers have been transferred (Usman 2001:4). The sub-districts (*Kecamatan*) are dissolved as separate territorial organisation; the sub-district heads and their administration are placed under the district to co-ordinate the latter’s tasks with the villages. Art. 93 of Law 22 states that villages can be formed, abolished or joined with the consent of the district head and the regional parliament, “giving consideration to the socio-cultural conditions of the population”. Also the name for a village can be adapted to socio-cultural conditions, in the sense of using traditional ethnic or regional concepts such as *nagari*, *huta* or *marga*.

Law 25 of 1999 provides the general framework for the new financial relations between centre and regions. Art. 1 states that “financial equalisation (*Perimbangan keuangan*) between the centre and regions is a system of financing government in a unified state, which involves the division of financial resources between the centre and the regions, and a balancing out or equalisation of resources in a just, democratic and transparent way, in proportion to the

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<sup>6</sup> See Art. 7. See also Booth 2001.

potential, conditions and needs of the regions". Although many details still have to be regulated by further legislation, the law provides a general structure for the allocation and distribution of resources. The regions will have their own independent income (*pendapatan asli daerah*, mainly various tax revenues) and will receive "equalisation grants" income generated through the exploitation of natural resources. The division between the central administration, the province and the districts is specified for different kinds of resources. The centre still keeps a strong hold on natural gas and oil, of which 85% flows to and is used by the centre and 15% is due to be redistributed.<sup>7</sup>

The implementation of these laws is an enormous task, and there still is much uncertainty about how they will eventually work out. The decentralisation process is supported by the IMF with a large grant of 132 trillion rupiah, of which 72 will be distributed as *Dana Alokasi Umum* (general allocations) and 60 as *Dana Alokasi Khusus* (special allocations). These will be distributed between the provinces and to districts and towns according to a key. It is expected that West Sumatra will receive 2 trillion rupiah. Allocation to the villages will follow the same pattern, but they are also supposed to generate their own resources. As one response to the new tasks, the province, districts and the villages have set up institutions to develop plans for economic development.<sup>8</sup> Early 2001, the provincial government of West Sumatra made a first regulation about its budget (*Anggaran Pendapatan Belanja Daerah*). The draft evoked much protest, since between two thirds and 80% are planned for routine expenditures, that is, mainly the salaries for civil servants. This led to demonstrations and a student strike in March claiming that too much goes into overhead costs and too little remains for development. The Legal Aid Bureau (*Lembaga Bantuan Hukum*) threatened the provincial government with a class action suit.

## 2. Indications of administrative and political change

The implementation of decentralisation has started. Some ministries have been dismantled and the first energetic district heads have set up their district administration in the new style. There are differences in the ways in which the regional offices of the former central ministries are incorporated into the district administration. Not every regional office will become an independent district administration.<sup>9</sup> As the ministries departments were the most important sources for funding, dismantling them has created much confusion as to how the funding will be organised in the future. Generally, substantial cuts are expected as part of the IMF policy to reduce state expenditures. While decentralisation has created an overwhelming sense of opportunity and great activity, it has also caused much anxiety, especially among civil servants at the provincial level, who fear for their jobs and no longer know what their task is and how the lines of decision making run. Many have been sent home, and though their legal

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<sup>7</sup> For other resources the relationship is different. Of forest income, 80% are for the regions, of which 64% for the districts and 16% for the province. See for more details, Booth 2001, Usman 2001.

<sup>8</sup> For the province, this is the newly established West Sumatran Regional Investment Board (*Badan Koordinasi Penanaman Modal Daerah*). The districts also have set up such bodies.

<sup>9</sup> The services of the former Ministry of Social Affairs, for instance, will become a separate administration in some districts, but in Solok, Limapuluh Koto and Pasaman they will be joined with other service branches.

status of civil servant does not permit laying off, their income has been reduced to the official basis income and they lost their allowances and official and unofficial extra incomes coming from projects (*tujangan*). For almost a year some sectors of the state administration were virtually closed for lack of funds and clarity of tasks.<sup>10</sup>

This rearrangement of the civil service has created a large number of superfluous civil servants.<sup>11</sup> There seem to be about 15000 more or less unemployed civil servants now who only receive their basic salary. It seems that at each level, the administration tries to push its superfluous personnel to the other administrative levels. One solution adopted by the district head of Solok in West Sumatra was to detach 400 civil servants to the villages, for each village five. They will continue to receive their salary and possibly an additional honorarium to make work in the village attractive for them (Fauzi 2001). The argument is that there will not be enough qualified people in villages to deal with the new tasks of generating their own revenues that come with more autonomy. The district officers will support the village administration.

A particular problem is the future of the National Land Administration Board, (*Badan Petanahan Negara*), currently under the Ministry of the Interior. In most interpretations, the Board should also be decentralised. The central government, however, made a Presidential Decree (*Keputusan Presiden* 10 of 2001) stating that land administration would remain centralised. This has been disputed and it has been said that the Presidential Decree is unconstitutional and the decree has to be revoked because it is not in line with the Law on Decentralisation. The position of many BPN civil servants is unclear (see also Usman 2001: 7). Most are said to be “already on holiday” (*sudah libur*). Some districts have not waited until the issue was settled. In the Tanah Datar district they have been incorporated into the district office, while in Solok they have become a district service.

The process of decentralisation points towards quite dramatic changes in the structure of regional and local political organisation. Regional autonomy means that the political and administrative lines of authority are changing. More decisions can be made at the level of the district and the village, which do not need approval from above. The extremely hierarchical structure, where civil servants at lower levels were exclusively interested in their alliances with the levels above them, especially with their relations to the centre, has been loosening up. However, there are signs that much more is at stake. The development towards regional autonomy seems to involve dramatic shifts in the generation and allocation of economic resources between regions and the central political authorities and also between districts and villages within regions. During the New Order regime of Suharto the only important links were hierarchical, if possible directly with the central government, from which all funding came and which decided in all-important economic matters. This was strengthened by the policy of spending much money for development not through structural allocations but

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<sup>10</sup> Booth (2001) reports that generally, the central government was slow in announcing and transferring allocations to the provinces.

<sup>11</sup> Usman (2001: 11) reports that in Indonesia 239 provincial offices of the central government, 3933 district level offices and 16180 technical units of the central government have been handed over to the provinces, districts and municipalities.

through the allocation of projects via presidential grants (*Inpres*, presidential instruction) and various other projects (see F. and K. von Benda-Beckmann 1998, Booth 2001). While the vertical lines dominated by the Jakarta ministries and their regional offices are being slimmed down, dismantled and generally become less important, new and more horizontal political networks and associations are formed that were quite unthinkable under the old regime and its hierarchical administrative and legal structures. Such networks emerged on nearly all levels of administration. The governors of the provinces associate in order to turn back the process of making the districts the main autonomous region. District heads all over Indonesia have now started to organise themselves horizontally in order to create a political platform strong enough to oppose those who want to revert to the old hierarchical structures. Moreover, they realise that they have new economic problems in common and hope to learn from the experiences in other districts. The Minangkabau village heads (*desa* heads) also have created a network in which they push their interests: first opposing the return to the *nagari*, later promoting their interests in their present and future situation, their pay in the transition period and the future of the *desa* assets such as the office motorbikes. At local levels, an All-Indonesian Adat Alliance (AMAN) has been formed with the support of NGOs that claims greater legal recognition of *adat* and *adat* based rights to natural resources (see Acciaoli, 2000, Li 2001, Antlöv 2001). All these developments tie in well with the ideology of “development from below”. Thus a number of new horizontally structured arenas of debate, decision making and politicking is emerging that was not foreseen, let alone intended, but resulted from the new potentialities created by a new legal framework. At all levels of administration, people were starting to forge more horizontal alliances. Though it is far too early to come to definite conclusions, we seem to be witnessing the first signs of a change away from a strongly hierarchical organisation to a combination of hierarchical and more horizontal modes of state organisation. We shall suggest some reasons why this is happening.

### **3. Ethnicity and localism**

Generally speaking, at many levels of governmental and economic organisation, the idea of local autonomy and the actual or expected economic and political consequences, have triggered new and strong feelings of regionalism. This obviously has to do with the new ways in which the local economy and financial streams are organised and with the larger amount of income being generated from local resources. But the developments also seem to have affected the general social and cultural atmosphere in which people perceive others in ethnic terms. People have started to define themselves much more than before as Minangkabau or not Minangkabau, and they have started to emphasise their allegiance to their regions within West Sumatra much more strongly than before. Even persons who are firmly opposed to this new form of regionalism and are concerned about the potential negative consequences of this thinking admitted that their perceptions of others were changing as well and that it was difficult not to be affected by this change.

One critical process in which the new regionalism becomes apparent is in the restructuring of government departments. In the process of reorganising the provincial and district



administration and the reduction of civil servants, there is a clear tendency that only a person from the district can become district head, mayor of a town or civil servant. When it comes to reduction of the administrative apparatus, the first that have to leave are non-Minangkabau, closely followed by Minangkabau from other regions. This leaves many non-Minangkabau, but also Minangkabau from neighbouring districts excluded.<sup>12</sup>

*Adat* and ethnic allegiance is also brought to the fore as the proper criterion for political-administrative boundaries. It is debated whether the province should change its name from West Sumatra to Minangkabau. This is problematic because on the one hand, not only Minangkabau live in West Sumatra but also members of other ethnic groups and, on the other hand, the Minangkabau world is larger than the present Province of West Sumatra. West Sumatran politicians are generally rather cautious in their statements. In June, the newspaper *Haluan* (27 June 2001) reported that the Association of Adat Councils of Kampar (*Lembaga Kerapatan Adat Tiga Kabung Air*) in the province of Riau had complained that the West Sumatran Association of Adat Councils (*Lembaga Karapatan Adat Alam Minangkabau*, LKAAM) limited its operation and jurisdiction to the boundaries of the province. But Minangkabau, they stated, was larger and encompassed parts of the provinces of Riau and Jambi. The general secretary of the West Sumatran council, however, stated that they, as West Sumatrans, were reluctant to intervene in other regions' local government issues.

We thus seem to be witnessing the development of localism and ethnisation, and, perhaps at the district level, a process coming close to ethnogenesis. In the section on village administration we will see that similar processes of exclusion are taking place there. However, this tendency towards localism and ethnisation is not uncontested. There are many voices that decry this tendency. Many Minangkabau families have experienced the negative aspects of the increasing ethnisation and exclusionary processes where non-ethnic populations are driven off their land. Many families have members who had lived in Aceh and been driven back home, losing their properties or businesses there.<sup>13</sup> They are also aware that more Minangkabau are living outside than inside the province of West Sumatra and take into account what could be the consequences for them if ethnicity-based processes of exclusion would force many migrants to come back to West Sumatra. But these voices have not stopped the tendency towards localism.

### **III. The return to the *nagari*: Reorganisation of village government**

The process of decentralisation in West Sumatra has become particularly dynamic because the province has decided to “return to the *nagari*” as the lowest level of government organisation. In order to clarify what this will mean, we shall first briefly sketch the history of local government organisation. We then describe the political process through which village

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<sup>12</sup> See also Usman 2001 on the increasing “sons of the region” (*putera daerah*) politics that can be observed in many regions of Indonesia.

<sup>13</sup> Minangkabau has a long history of migration, see Naim 1974, Kato 1982.

organisation is being changed in the context of the decentralisation policy and the ways in which it was taken up at district and village levels.

### 1. From *nagari* to *desa* and back: The development of local government in West Sumatra

The *nagari* were the most important form of political organisation in Minangkabau before the Dutch entered the Padang highlands, intervening in the civil war between orthodox Islamic groups and traditionalist villages (the so-called Padri war) early in the 19<sup>th</sup> Century and incorporating the region into the Dutch East Indies Colony.<sup>14</sup> The *nagari* was largely incorporated into the Dutch administrative system and the colonial political economy as the lowest form of indirect rule.<sup>15</sup> During their rule, the Dutch government repeatedly intervened and changed the traditional political organisation of the *nagari*.<sup>16</sup> The *nagari* had been governed by a council of the heads of matrilineages (*panghulu*). The Dutch created a *nagari* head as the highest governmental official and representative in relations with the Dutch. For the purposes of the system of forced coffee cultivation, they created a limited number of administrative clan heads (the so-called *panghulu rodi*) who were responsible for the cultivation and delivery of coffee by members of their matrilineages. The Dutch administration also attempted to freeze the number of *panghulu* by prohibiting the installation of new *panghulu*, which affected earlier *adat* mechanisms through which lineages were officially split.<sup>17</sup>

Government intervention into the governance structure of the *nagari* continued after Independence. In the absence of a national law on local government, the provincial government made repeated changes in the *nagari* organisation. There was considerable variation in *adat* governance structures that had evolved locally and was differentially influenced by the incorporation into the Dutch and Indonesian administrative systems<sup>18</sup>. In the 1970s, many *nagari* still had a dualistic political organisation. There was one official administrative hierarchy that was incorporated into the local government organisation. It consisted of the Village Mayor and the Village Council (*Kerapatan Nagari*),<sup>19</sup> in which a

<sup>14</sup> See Kroesen 1873, Willinck 1909, Westenenk 1918 a, b, Bachtiar 1967, F. von Benda-Beckmann 1979.

<sup>15</sup> After the Dutch had consolidated their power in West Sumatra in the mid-19<sup>th</sup> century, they introduced a higher level administrative unit, the *laras* under a *Tuanku Laras* (der Kinderen 1875). These *laras*, which functioned until 1915, were supposedly (and sometimes really were) based on earlier political associations between *nagari* (see Leyds 1926).

<sup>16</sup> It would be misleading though to see the Minangkabau village as an exclusive creation of the Dutch colonial regime, as it has been argued for Java by Breman 1987 and Kemp 1988. For discussion of the influence of the colonial system on Minangkabau villages and *adat*, Kahn 1976, 1993, F. and K. von Benda-Beckmann 1985, Zed 1996.

<sup>17</sup> In some cases, the earlier territorial *nagari* boundaries were also affected. Some *nagari* were considered too large and split into two; some became reunited later, others not. In other cases, two or more small *nagari* were joined to form one. The first was the case in Canduang Koto Laweh during the *Laras* system. The second was the case in Tigo Balai in Matur and also claimed for Taratak Pauh in Solok.

<sup>18</sup> The most comprehensive overview of the bewildering governance structures and categories used in Minangkabau *nagari* is Kemal's dissertation of 1964. On the dualistic *nagari* organisation, see Sa'danoer 1973, Thalib 1974, K. von Benda-Beckmann 1984.

<sup>19</sup> The terminology is not always consistent, however.

selected number of traditional *adat* elders always played an important role beside religious leaders and intellectuals (*cerdik pandai*).<sup>20</sup> The other one was “the *adat*” organisation with an Village Adat Council (*Kerapatan Adat Nagari*, KAN) as the highest *nagari* institution in which leadership was legitimated in terms of local *adat* only and which consisted in principles of all *panghulu* of the village. Of course, this village *adat* was not an “authentic”, “uncontaminated” set of norms and institutions; it was deeply affected by the colonial experience, as it continues to be affected by the wider national setting in which it has operated in the 50 years of Independence.<sup>21</sup>

In the 1970s, the Indonesian central government started to homogenise the plurality of laws on its territory, consolidate centralist rule and standardise the regional variations in local government.<sup>22</sup> The Javanese model of the village (*desa*) as the lowest local government unit became standard throughout Indonesia under the Law on Local Government of 1979. In Minangkabau it was effectively implemented in 1983. The *desa* were in the first instance based on the village wards (*orong*), an *adat* subdivision of the *nagari*. In Minangkabau this meant that the *nagari* were split up into several *desa*: the 543 *nagari* in West Sumatra (including the islands of Mentawai) became 3516 *desa*. The reason for the relatively easy adoption of this new structure was that the new law allocated a development grant (*uang bandes*) to each village, irrespective of its size or population. As the *nagari* were substantially larger than villages elsewhere in Indonesia, West Sumatra would financially be severely disadvantaged if it would simply convert one *nagari* into one *desa*. Division of one *nagari* into several *desa* meant that the amount of funds was multiplied nearly by seven.<sup>23</sup> It soon became obvious that many *desa* were too small and had too few inhabitants to be feasible administrative units. In a later phase in 1988/89, therefore, the number of *desa* was reduced by joining adjacent *desa* to form a new one. Afterwards, there remained approximately 1700 *desa*.<sup>24</sup> By then the financing system had changed and the size of a *desa* was no longer vitally important.

With the implementation of the Law on Local Government of 1979, the *nagari* had ceased to be an official administrative unit. However, a provincial regulation of 1983<sup>25</sup> allowed for the *nagari* as “*adat* law community” (*masyarakat hukum adat*) and acknowledged the Village Adat Council as the institution representing this community. A number of implementing regulations gave detailed instructions how the Village Adat Council was to be constituted according to *adat*, and how it was to exercise its main tasks: strengthening traditional values, maintaining the unity of the *nagari* population, managing its riches and settling disputes on *adat* matters. A circular letter of the West Sumatran Appeal Court stated that *adat* disputes

<sup>20</sup> Those *nagari* that had been under Padri rule in the early 19<sup>th</sup> century have retained elements of that phase of *nagari* organisation, with a stronger emphasis on territorial organisation around the mosques, see F. von Benda-Beckmann 1979.

<sup>21</sup> See Kahn 1976, 1993, F. von Benda-Beckmann 1979, K. von Benda-Beckmann 1984, F. and K. von Benda-Beckmann 1985.

<sup>22</sup> On Minangkabau political history in general, see Kahin 1999.

<sup>23</sup> Before 1983, the *nagari* would have each received 2 million *rupiah*, totalling 1.083 billion.

<sup>24</sup> 1,744 *desa* according to Laporan Sumani (2000: 44). The village Canduang Koto Laweh for instance was first split into 13 *desa* and afterwards into six. See for other regions in Sumatra, Kato 1989, Galizia 1996.

<sup>25</sup> *Perda (Peraturan Daerah)* Regional Regulation 13 of 1983.

would not be accepted unless the Village Adat Council had passed a decision. The *nagari* as *adat* law community and the Village Adat Council thus, paradoxically, were formally regulated as “informal law and institution”.

The problematic relation between *desa* and *nagari*, and especially the role of *ulayat* land, the communal land of a village or matrilineal (*suku*), was intensely debated in Minangkabau during the 1980s and 90s in a number of journals devoted to Minangkabau politics, history and the role of *adat* (see Abdullah 1996, Naim 1990). A seminar in 1989 led to the establishment of the foundation *Yayasan Genta Budaya* on “*Nagari, desa and village development in West Sumatra*”. This foundation also published a journal in which Minangkabau local politicians and intellectuals exchanged their views on Minangkabau history and the relationships between *nagari* and *desa*. It brought out special issues with the titles “Do Minangkabau intellectuals stagnate?” (Vol. 1, No. 1, 1995), “Local versus global culture” (No. 2, 1996) and “*Nagari, democracy and change*” No. 3, 1996) – all long before the return to the *nagari* began to become real in 1999-2000. Another foundation, *Yayasan Sako Batuah*, published the journal *Buletin Seri Alam Minangkabau*, which was used by the Association of Adat Councils as a medium for communication and information. It regularly published statements, largely in Minangkabau language, on *adat*, the status of village land (*tanah ulayat*) and on the Village Adat Council. Also the government was active promoting the - administratively no longer existing *nagari* - as informal units for development.<sup>26</sup>

With decentralisation or “regional autonomy” coming into view, discussions of what this might mean for Minangkabau erupted among engaged citizens, both in the provincial and regional political arenas and in the villages. Many local politicians and traditional village leaders claimed that local government should “return to the *nagari*”. It was generally held that the *desa* system had not functioned well, that it had destroyed *adat*, the unity of the *nagari* population and eroded the authority of the elders over the young. Optimists hoped, somewhat naively, that going back to the *nagari* would solve these problems. More sceptical voices, among them many urban intellectuals and the acting *desa* heads, pointed out that a return to some nostalgic past would not remedy these evils. In their eyes, the unsatisfactory functioning of the *desa* was mainly the result of inadequate financial and personal resources. It was also due to the fact that *adat* leaders did not cooperate with the *desa* administration. Moreover, if anyone had destroyed *adat* and *adat* authority, it was the *adat* leaders themselves, who no longer really knew *adat*, did not develop the Village Adat Council into a functioning institution and manipulated whatever control they had over *nagari* assets to their own personal advantage. Such reproaches were also heard from many favouring *adat* and the return to the *nagari*; however, in their view all this was the consequence of the *desa* system and would improve once village government was returned to the *nagari*. Others maintained that the expected changes would be minimal and that reform would be confined to simply changing the name of the local government unit.

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<sup>26</sup> See the 100 page Decree of the Governor No. 17 A of 1990 on “Working together: Conception and strategy for village development in West Sumatra” (*Manunggal sakato: Konsepsi dan strategi pembangunan pedesaan di Sumatera Barat*).

Prior to the general elections in 1999, the “back to the *nagari*” policy had been officially adopted by the governor of West Sumatra. Already in November 1998, there had been a workshop on regional autonomy held in Padang, the capital of the province. As a consequence, the provincial government established a research committee to look into the wishes of the people. A research team, headed by a long time consultant from Andalas University in Padang and a strong proponent of the *nagari* structure, was sent out to poll the views of the village populations. It concluded that by far the majority favoured a return to the *nagari*. Those in favour emphasised that it was not simply the strengthening of *adat*, but that also the cross-*desa* family ties and feelings of belonging together to the same clan were important elements for cooperation. The *adat* leaders usually were strong supporters for the return to the *nagari*. The Village Adat Council should remain and should play a role as village court, as well as develop into an organisation active in the economic field managing *nagari* resources. In the resulting recommendations, the Village Adat Council was included in the government structure. It was to be closely involved in the economic management of the *nagari*. It should establish a Village Enterprise (*perusahaan nagari*). But there were also doubts. The division into smaller units was seen as a good thing by many, bringing the administration closer to the people, especially in those *nagari* which were very large. The team also took notice of dissenting voices and suggested that in some cases, especially in very large or highly populated *nagari*, splits of the *nagari* could be considered.<sup>27</sup> In their view, the number of *nagari* could ultimately become 791. Such village divisions should occur not earlier than two years after the introduction of the new system.

Based on the findings and recommendations of the team, the Governor sent his considerations to the Minister of the Interior on December 7, 1998. In this message he stated that the imposition of the *desa* model had not worked well in West Sumatra because it was “not in accordance with the socio-cultural system”. Therefore, West Sumatra was willing to prepare a draft law on village government abolishing the principle of uniformity and implementing an understanding of “village” in accordance with the local socio-cultural system. In line with this, the province wanted to return to the *nagari* as the smallest local government unit. The provincial regulation on local government was intensely discussed in and outside the provincial parliament, in consultations with non-governmental *adat* and Islamic organisations and influential Minangkabau migrants in Jakarta.<sup>28</sup> A total of around twenty drafts of the provincial regulation were discussed at many meetings, in newspapers and journals. In the provincial parliament, there were a number of critics. Some were critical because of their strong alliance to the centralist Suharto regime, others out of a deep concern for democratic structures. But the disenchantment with Suharto’s New Order and the national political situation of the *reformasi*, which reinforced the general tendency towards regionalism, were important reasons for the provincial politicians to endorse this revitalisation

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<sup>27</sup> They chose a sample of three *nagari* in each district. They spoke with *adat* and religious leaders and intellectuals, as well with district and *desa* heads. However, there is no evidence that the ordinary population was involved.

<sup>28</sup> On the 8th of March, 1999, the team brought out a report on the discussions and meetings of the provincial government and Minangkabau members of the national parliament.

of *adat*, at least rhetorically. The arena of decision making reached beyond its members and the political parties. The influential provincial Association of Adat Councils (LKAAM) was a strong player in the field. Its most important members were former high officials in the provincial and regional administration, some of whom were to return to a position in the district administration after the regional elections, and some academics, who were also *adat* leaders in their own villages. The council had been part of the ruling state party Golkar. It had been established with government support, amongst others, to contain political *adat* aspirations.<sup>29</sup> Though the council now claimed to be an organisation totally outside the state structure, that was not how others saw them. But its position has become increasingly independent from the provincial government and, before the last general elections, it had dissociated itself from the state and Golkar. They propagated and continue to propagate the most far-reaching form of returning to the *adat* structure of the *nagari*. They want to leave control over village resources exclusively with a council of *adat* leaders and are critical of those seeking too easy a compromise between *adat* principles and administrative structures of a democratic organisation. In its *Buletin Seri Alam Minangkabau*, the members of the council board between 1999 and 2001 regularly published statements on *nagari* governance and *adat*, many contributions being written in the Minangkabau language.

After these lengthy discussions, the province enacted a Provincial Regulation on *nagari* government in December 2000,<sup>30</sup> which became effective in January 2001. The language of the regulation is full of references to *adat*. The preamble states that West Sumatra is going back to *nagari* government, followed by the ritual formula that “*adat* is based on Islam, Islam is based on the holy Koran; religious law orders, *adat* is used; nature is the teacher of mankind”.<sup>31</sup> The regulation provides for an initial return to the *nagari* in their territorial boundaries before 1979. Furthermore, it mentions the *nagari* resources: a market, village field, council hall, mosque and prayer houses, land, forest, rivers, ponds, lakes and part of the sea which used to be common *nagari* resources (*ulayat nagari*), public buildings and movable and other properties. The village government consists of an elected mayor, an elected legislative body, an advisory body consisting of representatives of four or more of categories, i.e. *adat* leaders, religious leaders, intellectuals and women. One of the debated issues was whether the Village Adat Council should be acknowledged in the regulation. While the Village Adat Council had been mentioned in the very first draft, it had disappeared in some of the later drafts. But the consultant team and the Association of Adat Councils pressured successfully for the reintroduction of the Village Adat Council in the final draft. As before, the Village Council is regulated, but it is not part of the official *nagari* government. Its main task is to mediate in disputes relating to lineage property and to protect *adat* in general. The name for this council was also disputed. For many, the institution Village Adat Council was

<sup>29</sup> The LKAAM has organised recurring all Minangkabau meetings at which important issues related to *adat* are discussed among *adat* leaders from the whole province. For an account of the Great *Musyawaharah* in 1975, see K. von Benda-Beckmann 1975.

<sup>30</sup> Provincial Regulation of West Sumatra No. 9 on the Basic Principles of Village Government (*Peraturan Daerah Provinsi Sumatera Barat Nomor: 9 tahun 2000 tentang Ketentuan Pokok Pemerintahan Nagari*).

<sup>31</sup> *Adat basandi syarak, syarak basandi kitabullah. syarak mangato adat memakai alam tabang jadi guru*. Characteristically, this is now abbreviated as ABSSBK.

too strongly associated with its establishment by the New Order government of president Suharto. The provincial regulation ultimately choose the more neutral name Village Adat Institution (*Lembaga Adat Nagari*), but left it to the districts and *nagari* to opt for another name.<sup>32</sup>

The new regulation sets a general framework for the local government but leaves the concretisation to the districts, which are to make their own regulations. Additional legislation also must follow to deal with the non-Minangkabau Mentawai islands under the administration of the province,<sup>33</sup> and with the question of whether and how current municipalities could also become *nagari* again.<sup>34</sup>

## 2. Local responses to decentralisation

The new district heads and parliaments have (re)acted with quite different speed and enthusiasm to these developments. In two districts, Limapuluh Koto and Solok, energetic district heads, one of whom had been a leading member of the Association of Adat Councils, have taken a number of initiatives to implement the new structure as soon as possible, revising their district administrative structure and pushing forward the return to the *nagari* system. They were quick in promulgating their own district regulations and were ready to start the moment the provincial regulation became effective on January 1<sup>st</sup> 2001. Solok was first in January 2001, followed by Limapuluh Koto three months later. They have taken their new, more autonomous position seriously. Both call for a far more intensive occupation with development potentials within their region. In line with the greater autonomy of villages, they have initiated collaborative economic activities with local governments. The same district heads also actively promote the installation of new *adat* leaders, in order to have a strong and educated village administration.<sup>35</sup>

But what is a challenge for some district heads is a reason for profound anxiety, especially about the economic future, for others. And these district heads have remained more passive, waiting to see what others at higher administrative and political levels are going to do. Those who had always depended on a continuous flow of funding from the various departments on the central level, and who had successfully siphoned off parts of these funds for private purposes, look with alarm at the drying up of central government funding. Moreover, those who had arranged themselves successfully in the centralist clientelist system and had carved

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<sup>32</sup> The Regulation 13 of 1983, which had acknowledged the Village Adat Council after the abolition of the *nagari* was repealed.

<sup>33</sup> There is general consensus that Mentawai has a different *adat* from Minangkabau and should be allowed its own village structure.

<sup>34</sup> This is another hotly debated issue. The Mayor of Solok was strongly against this. The whole municipality of Solok used to be one *nagari*. Now the population is 57000. The people of Solok pushed very hard to get municipality status and now did not want to lose it. Splitting Solok up into several *nagari* seemed to be impossible in his view.

<sup>35</sup> In Talago (Limapuluh Koto) we briefly visited a ceremony in which 45 new lineage heads were installed. The meeting was attended by the district head. This push towards filling all vacant positions of lineage heads is not so much because they are concerned with *adat* as such. They argue that since the new structure of local government allows for a stronger and more substantial role for *adat* leaders, there is a need for well educated *adat* leaders, who understand the way the modern economy works.

out a private forest business, for instance, backed by licences from the centre, now face strong opposition from local communities who are already claiming back control over forest resources. Decentralisation thus has created substantial insecurity for those in the new power positions.<sup>36</sup>

The lowest arena in which the issues are being negotiated is the *nagari*. Apart from its inhabitants, migrants from the village living in the regional or provincial capital or even in one of the large cities outside of West Sumatra take a keen interest in the issues and participate in the debates, by phone, fax, e-mail and if necessary in person (Biezeveld 2001). The response to the new regulations and political debates is quite diverse, both in terms of pace and content.<sup>37</sup> Some *nagari-to-be* have been fast in establishing the new *nagari* governmental structure and started to design regulations even before the district regulations had been enacted. Others have remained passive, waiting for orders from higher up. There is still opposition from *desa* heads. The *desa* heads had established an organisation, *Forum Komunikasi Kepala Desa*, which originally vehemently opposed the return to the *nagari*. By now, they have accepted the decision that there will be a *nagari* structure, but they continue to point out that there are many controversial issues and that the development “back to the *nagari* is not in line with the aspirations of the people” (Padang Ekspres May 28, 2001). In the *nagari*, draft district regulations are discussed, criticised and amended; and in the advanced districts the first *nagari* and their new leaders have been formally installed. By spring 2001, it had become generally accepted that West Sumatra indeed would revert to a *nagari* structure. The Provincial Regulation No. 9 of 2000 in the eyes of most people constitutes a point of no return. Those who were still vehemently opposed in 1999 and 2000 had changed their position by March 2001. By June 2001 the situation was as follows. Two districts, Solok and 50 Koto, have their district regulations. The other districts are still working on their regulations, drafts of which are discussed in parliament and in villages. 49 out of the 79 *nagari* have already been formally recognised in Solok, and 46 out of the 70 *nagari* in 50 Koto. The target is to have 250 *nagari* recognised by the end of the year 2001, and by the end of 2002, all 543 *nagari* should be recognised (Haluan June 25, 2001). But so far only one village head had been officially elected; the others were still preliminary acting village heads (Padang Ekspres June 2, 2001). In Limapuluh Koto, the district head has started to transfer the funding of the General Allocation Grant (*Dana Alokasi Umum Nagari*,

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<sup>36</sup> However, it would be wrong to conclude that reluctance grows out of private interest only. Some district heads are genuinely concerned about a too powerful role for *adat* leaders. They have seen too many *adat* leaders who took private advantage of their position, who are poorly educated and know little of *adat*. They have no confidence in the capacities of these *adat* leaders and think that more autonomy can only harm economic development. They hope that by sitting it out they will bridge the time until a more centralist policy will come into place again.

<sup>37</sup> While the formation of *nagari* organisation at *nagari* level certainly is going faster in the “progressive” districts of Solok and Limapuluh Koto, this variation also cross-cuts districts. There are fast and eager *nagari* in the districts of Agam only waiting for their districts to come up with a regulation, and there are also reluctant *nagari* in Solok and Limapuluh Koto.



DAUN) to the recognised *nagari* governments.<sup>38</sup> While formerly the *desa* received 10 million rupiah a year, this will now be between 75 for small and 150 million for large *nagari*.

Within this new legal and institutional context, discussions and struggles over the further concretisation and implementation of local government organisation continue. The main issues are to what type of *nagari* one should go back, how the representatives of the village parliament are to be chosen, what the role of the Village Adat Council will be and to what extent rights to village land (*ulayat*) are to be recognised and revitalised and who will hold them. The following sections will address these problematic issues and give an impression of the variety of solutions that have been found thus far.

#### **IV. Village organisation and the legitimisation of authority**

The provincial and district regulations set the general framework for village government institutions, but allow the *nagari* some leeway for variation. For instance, apart from the function of village mayor (*Wali Nagari*), the name for the government institutions mentioned in the provincial and district regulations can be changed according to local wishes and traditions. There is some variation in the ways in which members of the village parliament are to be selected and about the role of the other institutions. These issues have a high symbolic value because naming the institutions can be used for re-establishing or dissolving the connection with the past and thereby determine to what extent the past offers legitimations for the present. We have mentioned earlier that the term Village Adat Institution in the provincial regulations was explicitly chosen in order to avoid an association with the Village Adat Council that was recognised in 1983 by the government. For others, on the other hand, the term Village Adat Council is intimately connected with the non-governmental and even pre-colonial organisation of *adat* leadership. Apart from this symbolic issue, the process of selecting candidates for the village government institutions is important because it structures future positions of authority within the village, which are expected to be more powerful than in the past. During the New Order regime of President Suharto, when hardly any decision of political or economic consequence was left to the village government, having a position in the village government was in the first place a possibility to gain access to project money. Now it is expected to involve control over the direct income from village resources in addition to the control over allocation grants from the district. As the expectation is that eventually less money will come from higher administrative levels and a large proportion will be generated within the village in the form of land, forest and market taxes, much (potential) economic and political power is at stake, though many may have an unrealistic view of just how high the revenues will be.

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<sup>38</sup> The district head of Agam, who has been very reluctant to implement the new regulation, announced that 217 *desa* and 7 municipal districts (*kelurahan*) would soon be abolished and transformed into *nagari* (Haluan June 18, 2001).

## 1. The institutional organisation of the *nagari*

In the following, we shall briefly describe how the general terms of the provincial regulation are translated in district and village regulations and then discuss their underlying principles.

### *The Village Mayor (Wali Nagari)*

The district and village regulations operate with a set of criteria a candidate must fulfil. The most important are that he is competent, knows and respects *adat* and religion, is neutral in terms of party politics and was not involved in the 1965 communist coup. Village regulations vary in some details, for instance in the minimal age (often 30 years, sometimes 25). They also have different residency requirements. Some demand a prior residence in the *nagari* of two years. This presumably is done to avoid influential migrants returning from Jakarta or other big cities immediately assuming control in the village.

It is unclear whether the gender issue will become a problem. The gender of candidates is not mentioned among the criteria<sup>39</sup> but it is an issue discussed in some circles. As a member of the West Sumatran provincial parliament for instance declared, “the exclusion of women should not be seen as being contrary to human rights. Rather it is in accordance with Minangkabau *adat*, where women for instance cannot be installed as lineage head and bear the title of *Datuk*. Despite the important position of women in Minangkabau, there are limits“ (Haluan, June 20, 2001).

### *The Village Parliament (Badan Perwakilan Anak Nagari)*

The provincial regulation speaks of a Representative Council of Village Citizens (*Badan Perwakilan Anak Nagari, BPAN*). It states that the village parliament is to consist of members chosen by the *nagari* population (art. 5). The district regulations allow for some variation in the regulation of the village parliament, regarding the name, number of members, and in the procedure for selection. The number of members of the village parliament vary between 11 and 33.<sup>40</sup>

The most interesting characteristic is that in more or less all district and village regulations, the rule for general direct elections prescribed in the provincial regulation is transformed into a combination of direct elections and representation of categories (*unsur, golongan*), the members of which are selected in a process of common deliberation leading to consensus. The general pattern is that the village wards (often the former *desa*) will all have one representative in the village parliament. The rest is chosen by category. Omnipresent are the three classical categories of *adat*: The *adat* elders (*Ninik Mamak*), religious leaders (*Alim Ulama*) and the “intellectuals” (*Cerdik Pandai*). In addition, two other categories are always used: the *adat* women (*Bundo Kanduang*) and “the young” (*pemuda*). Sometimes these are

<sup>39</sup> In the workshop held in Gantung Ciri it is mentioned that the candidate must have the consent of their spouse. This suggests that the candidate could also be female (Laporan Gantung Ciri 2000: 18). The Sumani report explicitly mentions for the village parliament membership that candidates can be male or female. However, in the workshops of Sumani and Alahan Panjang no mention of gender was made. It only was stated, that the candidate had to fulfil the conditions of *adat istiadat* (Laporan Sumani 2000: 20).

<sup>40</sup> The Tanah Datar district draft develops a scale of the number of members ranging between 11 and 17, varying with the number of inhabitants.

augmented by “local leaders”, “professionals”, “farmer’s groups” and, rarely, “migrants”.<sup>41</sup> The draft of district Sawah Lunto in addition includes “socio-political organisations”. This apparently was understood as “political parties” and led to a strong negative reaction from the villages, which are afraid that party politics will come to dominate the village administration. This section in the draft is likely to be repealed.

The process of selecting representatives varies. Those *nagari* that have already made their regulations or held workshops leading to draft regulations show some variation in the ways the members are to be selected.<sup>42</sup> *Adat* elders are usually selected by common deliberation within their matriclans and in the Village Adat Council, religious leaders either by matriclans, village ward or from within their own religious village organisation.

*The Adat and Religion Consultative Institution (Badan Musyawarah Adat dan Syarak)* According to the provincial regulation, this body is to consist of representatives (*utusan*) of *adat* elders, intellectuals, religious leaders, *adat* women and other components of society (art. 5). Here we encounter a similar variety in name and composition. In the district regulation of Solok, taken over by most village regulations, the institution is called The Council of the Three Pillars (MTTS, *Majelis Tungku Tigo Sajarangan*); members are to be chosen from among the *adat* elders, religious leaders and intellectuals. The number and the selection procedure for choosing or appointing the members is decided by the Village Mayor, the Village Parliament and the Village Adat Council (art. 95). The Tanah Datar draft does not

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<sup>41</sup> The district regulations (as far as we know them) show some variation in demarcating the categories. In the district regulation 4-2000 of Solok, it is *adat* elders, religious leaders, intellectuals, women and the young (art. 76). According to the draft of Tanah Datar all members are to represent their village ward and they are to be chosen from the categories of *adat*, religion, professionals or other eminent local personalities (*pemuka masyarakat*). The election takes place through a common deliberation leading to consensus (*musyawarah* and *mufakat*) that is facilitated by the head of the village ward (art. 45).

<sup>42</sup> In *nagari* Koto Baru (Solok), for instance, each matriclan sends one *adat* elder and a woman. Further, each former *desa* sends three members, who have to mirror the groups of intellectuals, religious leaders, the young, and the village welfare association. Gantung Ciri chose for a small parliament with only 13 members (one person for each of the 5 village wards (here called *kampung*), and each for one NGOs (*koperasi* or farmers group), religious leaders, Village Adat Council, the young, intellectuals, highly educated, women and migrants. Each of these categories should conduct direct elections.

Alahan Panjang opted for a larger parliament of 23 members. Eleven would come from the eleven village wards. Three would be selected from the Village Adat Council members, two each from the young, religious leaders, intellectuals, and one each from *adat* women, farmers groups and the wealthy (*pelaku ekonomi*). The Village Adat Council members will be chosen by the council itself. The other representatives will be chosen directly in the village wards (see Laporan Alahan Panjang 2000).

Sumani has opted for a parliament of 23 members. The parliament will have three committees with seven members. In addition, there will be a chairman and vice chairman. Of these, 12 are to be chosen by each of the village wards, while 11 come from the following categories: Three from the Village Adat Council, two from the religious leaders and women, and one each for the young, migrants, intellectuals and well-educated. The village ward members are directly elected in the ward. The Village Adat Council members are chosen by the council. Each village district holds a common deliberation meeting (*musyawarah*) for finding two candidates. These hold another meeting to select the representatives. The organisation of the migrants will choose their own representative. For the intellectuals, women and well-educated, the election will be done by an Election Committee on the basis of the suggestions of the common deliberation meetings held in the village wards, to which each ward sends two representatives. In *nagari* Koto Gadang Guguek (Solok) the composition is: Six members each for *adat* elders and for local leaders, three each for religious leaders, the women and intellectuals (Haluan, June 5, 2001).

mention or regulate this institution and only concentrates on the Village Adat Council. The district categories are taken over in *nagari* Alahan Panjang.<sup>43</sup> But in *nagari* Gantung Ciri, one has opted for the classical division into three groups *adat* elders, religious leaders, intellectuals (*ninik mamak*, *alim ulama* and *cerdik pandai*) with five members each. *Nagari* Koto Baru has an even more varied composition: Six members from among of *adat* elders, one member from each (former) *desa*, four intellectuals who have migrated to Padang, one such migrant from Jakarta, one from Medan and one from Bandung.

*The old and the new Village Adat Council (Kerapatan Adat Nagari)*

Of all village institutions, the status and functions of the Village Adat Council was most intensively debated. By choosing the name Village Adat Institution and not Council, the provincial parliamentarians wanted to emphasise their intention of dissociating this body from the Village Adat Councils of earlier periods. In most district regulations and in the village proposals, however, people revert to the name Village Adat Council. Only the district regulation and most village regulations in the district of Limapuluh Koto take over the name Village Adat Institution. The district regulations give different emphasis on the regulation of the Village Adat Council. In Solok, it is simply “recognised” (*diakui*) under the heading of “other institutions”. Its organisation and working methods are to be decided by the *nagari* in accordance with the existing *nagari adat*. The draft regulation of Tanah Datar goes furthest in defining the authority of the Village Adat Council. Its tasks are to maintain, develop and strengthen *adat* and Islamic law; to settle disputes on *adat* titles and property (*sako* and *pusako*), but also to settle criminal *adat* disputes in the *nagari*. While the Tanah Datar draft is probably the most “*adat*-minded” vision of the Village *Adat* Council in the future, the draft of district Sawah Lunto-Sijunjung is the least Village Adat Council minded regulation. It only focuses on the village mayor and parliament and then proceeds to regulate “other institutions”. Art. 96 says: “In the process of developing and strengthening *adat istiadat*, the already existing *adat* institutions must get the function they need in order to fulfil their role as they should“. Further details shall be decided by a decree of the district head.<sup>44</sup>

Generally thus, the Village Adat Council maintains its ambiguous position in the new village governance structure. It is not a body of the official *nagari* government yet is regulated and its functions are circumscribed and authorised in the official regulation, down to the committees the Council is to have and its financial support. This, together with the repeal of Provincial Regulation 13 of 1983 (that had established the Village Adat Council in its newest form), has led some people to believe that “the Village Adat Council has been abolished”. Concerns are voiced that the new *nagari* regulations will actually diminish the role and power of the Council. People compare the 1983 regulation - in which the Village

<sup>43</sup> Two representatives for *adat* leaders, religious leaders, migrants, and one each for intellectuals, women and the young generation. In Sumani it is two each for *adat* leaders, religious leaders and women, and three for intellectuals.

<sup>44</sup> The district government of Sawah Lunto Sijunjung has possibly the largest interest in distancing the new Village Adat Council from its past. It is the region with the largest forest areas, and the district head is said to be a major timber entrepreneur. A strong connection with historical rights would weaken his position in the timber economy.

Adat Council was the only organ of the adat law community *nagari* - with the present one, in which *adat* law community and local government unit are made congruent again and in which the Village Adat Council is not an official organ of the *nagari*.

Such views of *adat*-defeatism, however, are being contested. The Secretary II of the Association of Adat Councils in the district Tanah Datar explained that, on the contrary, the Village Adat Council had always been part of Minangkabau *adat* as its highest institution. In his view, the Village Adat Council had not been established in 1983; this regulation had only legitimated and strengthened the Village Adat Council (Padang Ekspres, May 30, 2001). In the lectures given by representatives of the LKAAM at the workshops on *nagari* structures organised by the German Agency for Technical Cooperation, it was also emphasised that the Village Adat Council was an *adat* institution since ancient times, and that it had not been established and not interfered with by the government (Laporan Sumani 2000: 69).

## **2. Principles of legitimation: between *adat* and western democracy**

The debates over the ways of appointing or selecting members of the village parliament are interesting, because they concern different opinions of what constitutes democracy. District and village regulations show a strong preference for selecting members of the village parliament and other bodies on the basis of categories and selecting them through a process of common deliberation leading to consensus. *Adat* principles therefore play an important role in the selection process of the members of village institutions. This is a matter of contention in regional and local politics. There are voices that express their doubts about these procedures and who are afraid that the selection process will be dominated by the old and new elites in the villages. In their view, the new village parliament as the highest village authority should be a democratically elected body. This is not only a concern for urban intellectuals. Some villagers of *nagari* Limbanang in Limapuluh Kota, for instance, protested that the members of the village parliament had been selected via appointment (*penunjukkan*) and not through voting (Padang Ekspres, March 17, 2001). That such procedures should be undemocratic is vehemently denied, especially by the *adat* lobby, who claim to be the guardians of the true, Minangkabau type of democracy. Minangkabau democracy, with its strong emphasis on processes of common deliberation until consensus (*musyawarah untuk mupakat*) is considered superior to the “western style 50+1 voting democracy” (see K. von Benda-Beckmann 1984). “We have come back to the *nagari* and to *adat*, and in *adat* we do not vote”, the designated Village Mayor of Talago (in Limapuluh Koto) told us. But it is not just the traditionalist *adat* lobby, which is in favour for introducing Minangkabau principles of democracy. In the public sphere, politicians praise the Minangkabau consensus democracy. Marlis Rahman, the Rector of Andalas University, stated that the choice of, and preconditions for selecting the members of the Village Parliament and the Deliberation Council of Adat and Religion must proceed according to the Minangkabau philosophy of “*Adat* is based on religious law, religious law is based on the Koran” (*adat basandi syarak, syarak basandi kitabullah*) (Haluan, June, 8, 2001). The district head of Solok declared, “that democracy of the Minangkabau type was to

be valued higher than “western” democracy, for the *nagari* had been republics. Actually, the western countries had learnt democracy from Minangkabau, because in Minangkabau, democracy is based on *adat basandi syarak, syarak basandi kitabullah*. For the choice of leaders there were clear standards according to *adat*” (Haluan, June 5, 2001). The alternative has its drawbacks too. Today, party politics are associated with the Suharto regime and therefore widely rejected. Also the government is afraid of the potentially disruptive influence of party politics at village level. According to this view, balanced representation can only be reached by means of *adat*. There seems to be a remarkable and widely shared lack of historical understanding. The same categories that are employed as “*adat*” categories now also figured in the various bodies of village government throughout the Suharto era, an era that is now generally interpreted as having been utterly undemocratic. What is more, the state party Golkar was originally established as a body of representatives of “functional groups”. The irony is that what is meant as a rejection of the undemocratic New Order of Suharto, is taking over precisely the principles upon which its main political support was founded. Labelling these procedures as *adat* is a powerful political act, for in public discourse, *adat* is “below”, and “development from below”, a frequently heard slogan in contemporary Minangkabau, means development based on *adat*, not on individuals. This may also be the major reason that NGOs and donor agencies supporting the formation of new village governments, such as the German Agency for Development Cooperation (GTZ) seem to support these principles uncritically.<sup>45</sup>

## V. Struggling for political and territorial unity

The return to the *nagari* structure has led to an intensification of village politics. One important issue is whether the *desa* that formerly constituted one *nagari* are willing to reunite. Generally, struggles over the new positions of political and economic authority lead to strong tensions within the village elites. The chairmanship of the Village Adat Council and the position of Village Mayor promise to be much more powerful positions than before. Debates are hot and at times nasty. In the debates about the division of power positions, the reconstruction of history is most actively pursued. *Adat* leaders and their followers argue that originally, i.e. before the colonial period, they constituted the village government. As the guardians of the village and family histories, they are particularly legitimated to control the village resources. The *desa*-heads claim that *adat* leaders have long ceased to be interested in *adat*, that they do not know anything about *adat* and that, in general, they are a reactionary, backward bunch of people, who have been known to cheat their relatives. In contrast, they, the *desa*-heads, have in the past years proven to be much closer to the ordinary village people and therefore should keep their positions. Their claims are countered by derisory remarks that the only thing *desa* heads are interested in is in keeping their motorbikes and other material

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<sup>45</sup> The GTZ has sponsored and supported the meetings in three *nagari* through which the District Regulation and the ways of selecting members of the village parliament were concretised.

goods acquired through their office, an issue prominently discussed in the newspapers. In these discussions, most actors are “janus-faced” (F. von Benda-Beckmann *et al.* 1989). They hold positions in different relations of power and legitimation. The district head of Solok praises *adat* values and democracy, and emphasises at the same time that village government is not *adat* government (Fauzi 2001). This goes for many *adat* leaders prominently involved in these discussions, especially the influential Minangkabau migrants in the big cities in Indonesia. They are *adat* leaders but also university lecturers or government officials or businessmen. They view the new structure from a variety of interests, trying to find structures sympathetic to their interests. The common village population is less involved, more passive and more frustrated about these processes. Not unjustifiably, they feel that most of the deliberation and decision making processes occur over their heads and they have cynical views about the political rhetoric which is so strongly emphasising *adat* values and the “bottom-up” character of the political process. We shall illustrate these struggles for territorial and political unity with two case studies.

### 1. Struggles over territorial unity

In the processes preceding the *nagari* formation, the questions most often asked and debated is to what kind of *nagari* one would revert. A general policy answer has been given in the provincial regulation: In the first instance to the territorial units existing as *nagari* before the introduction of the *desa* system. Fusions and divisions of the former *nagari* are not excluded, but referred to a later stage.<sup>46</sup> According to the provincial regulation, a *nagari* can be divided only after intensive consultation of the whole *adat* law community. For this it is required that the Village Adat Institution and other social leaders have a common deliberation (*musyawarah*). After having reached consensus, the decision is forwarded to the district government and has to be confirmed by decision of the district head (art. 4c2). The formation of a new *nagari* has not necessarily the consequence that an independent Village Adat Institution will be established in the new *nagari*, if the mother *nagari* has not yet agreed with its establishment. This means that in matters of *adat* and *ulayat* matters, the new *nagari* would still be under the authority of the Village Adat Council, matriclans or lineages of the mother *nagari*. A new *nagari* can also be established on the territory of an existing *nagari* if it has developed as a new residential area (*lokasi pemukiman baru*), which has the potential for further development. The establishment of a Village Adat Council in these cases has to follow the regulations given by the council of the mother *nagari*.<sup>47</sup>

In many cases all *desa* that formerly were one *nagari* want to reunite. However, in other cases some *desa* do not want to return to their mother *nagari*. There are a number of different reasons for this reluctance. Some of the ex-*nagari* are much too large and too populated to

<sup>46</sup> One generally expects that ultimately the number of *nagari* will be larger than the pre-1983 543 *nagari* and will lie around 800.

<sup>47</sup> The District Regulation of Solok details the conditions (art. 5): There must be minimally 3500 inhabitants or 700 household heads; clear boundaries; good communication between *orong* must be possible; the preconditions for a *nagari* must be there and sufficient economic resources for the welfare of the village population. Such division must be deliberated until consensus in the village parliament and the Village Adat Council. The *nagari* decision must be validated by the district head after getting the consent of the district parliament.

remain one *nagari*.<sup>48</sup> In other cases, current *desa* want to establish their own *nagari* and have started to lay down their claims for independence already before the formation of the *nagari*. In some *nagari*, for instance Sungai Tenang in Agam, this wish does not seem to be a problem and there is a preliminary consensus that the *desa* should indeed become an independent *nagari*. However, in most cases the wish for immediate independence leads to intense struggles within the *nagari* arena in which the district government also becomes involved. The newspapers regularly carry news about *desa* that want to establish their independent *nagari* and we have been able to look into some cases in more detail.

One reason given by many observers is that *desa* want to establish their own *nagari* in order to get separate access to the general allocation grants (*Dana Allokasi Umum Nagari*) and thus expand the sums flowing to the former *desa* in their totality. While the index for allocating the funds takes into account the territorial and population size of the *nagari*-to-be, two *nagari* are likely to receive more than just one. Other struggles concern the relative prominence and resource endowment of the different village wards, which often are the former *desa*.<sup>49</sup>

The reluctance or outright refusal to join in the former *nagari* is strongest for *desa* that had originally been settlements of newcomers (*orang datang*) or descendants of slaves (*kemanakan dibawah lutuik*) who in *adat* have less political and economic rights than the original lineages.<sup>50</sup> Minangkabau villages used to make a clear distinction between original settlers and newcomers and this distinction has political and economic relevance in *adat*. Most of these settler groups are Minangkabau themselves, descendants of former slaves, who have lived there for more than 100 years, or they may be traders or even Javenese transmigrants who have settled relatively recently. None of them are full citizens in the *adat* sense. Some of these groups live in a more or less separate ward of the old *nagari* and in the present structure form a *desa* of their own. These groups very much fear losing their independence by reverting to the *nagari* structure and hope to establish their own *nagari*. The territory on which these communities live is usually part of the inherited property of certain clans that has been “given” to the newcomers under *adat*. While this property has the status of inherited property (*pusako*) for the newcomers, it remains under some residual rights of control of the original *pusako* or *ulayat* holders. It follows from their status as newcomers that the rights of the original lineages and lineage heads should be recognised. The *desa*-fication of the *nagari* had given such newcomer-*desa* a greater amount of actual autonomy, cherished by these settlements and resented by the old lineages. These old lineages therefore regarded the introduction of the *desa* system as having weakened the ties between people and lineages within the *nagari*. Although the provincial regulation of 1983 had recognised the *nagari* as

<sup>48</sup> Lubuk Alung, for instance, has developed into a major population centre and counts about 60,000 inhabitants.

<sup>49</sup> This seems to be the case in *nagari* Tanjung Gadang in Limapuluh Koto, a centre of coral stone extraction, a rich source of local income. There are struggles about where the *nagari* centre and the Village Adat Council will be located. According to the inhabitants of Tanjung Gadang Rumah, it must be in their ward, and not Bulakan. For formerly the centre had been in Tanjung Gadang Rumah. It had moved to Bulakan because Bulakan had become the centre of economic activity. If the centre would not move back to Tanjung Gadang Rumah, it would be better not to go back to the *nagari*, people said (Padang Ekspres, June 2, 2001).

<sup>50</sup> On the status of the descendants of former slaves (*kamankan dibawah lutuik*, literally: nephews and nieces below the knee) see Verkerk Pistorius 1868, F. von Benda-Beckmann 1979.



*adat* law community and given the task of guarding the *nagari* wealth and mediating in problems of inherited property and *adat* titles to the Village Adat Council, the present reorganisation of local government is perceived as a new phase in the relationship. Newcomer-*desa* are afraid that under the new regime the heads of the old lineages, who mainly reside in the older parts of the *nagari* and who dominate the Village Adat Council will again reassert their rights – especially in a situation in which everyone believes that *nagari* wealth can indeed be used for generating resources at a scale not possible under the *desa* system and the authoritarian New Order.<sup>51</sup> *Adat* leaders of the original village for the same reason vehemently oppose the establishment of a *desa* into a *nagari*, because they are afraid that they now would lose even more than under the *desa* system. Nevertheless, *desa* pushing their claim towards independence in *nagari* that pursue speedy recognition, have some means to force other *desa* and *adat* leaders into some compromises concerning their future position. They bet on reluctance on the side of the district head to recognise a *nagari* that has internal difficulties.<sup>52</sup>

#### *Going back to the nagari in the village of Selayo*

We heard about this case from persons involved with the research team that was to sound out the willingness of people to go back to the *nagari*. We got more information in March 2001 from a retired judge who had been chairman of the Village Adat Council for ten years. He also chaired the Committee that was to prepare the return to the *nagari*. Selayo had originally been divided into 13 *desa*; later, this was reduced to five *desa*. One of the *desa* (Lurah nan Tigo) wants to become a *nagari*. He explained: “They do not want to understand the new situation. They do not have the conditions for establishing a separate *nagari*. They do not have (sufficient) clans and *adat* elders. They also do not have sufficient irrigated rice fields. But they want to govern themselves. They do not want to be called for communal work (*gotong royong*) to Selayo and are afraid, that when they would call the people from the other four *desa*, nobody would come”. The retired judge had explained the situation to them: “We first must go back to the *nagari* according to the provincial regulation. Only later can we talk about the possible splitting of the *nagari*.” But they want to establish their *nagari* now and immediately. They also sabotage the common deliberation (*musyawarah*) and do not come to the meetings in which returning to the *nagari* is discussed. The judge further stated that “we live in a democracy. Everybody’s voice can and should be heard in the process, but one has to conform to the majority. But they (the people from the *desa*) oppose it a priori”. He then pointed at the major underlying problem: “The unyielding *desa* is constituted by original settlers (*orang asli*) and newcomers (*orang datang*). Most land in that *desa* Lurah nan Tigo is the inherited property of the original lineages living in the old village core, the present *desa*

<sup>51</sup> Also urban intellectuals fear that under the new system former inequalities which had been largely balanced out under the *desa* regime would re-emerge, Yonariza, personal communication.

<sup>52</sup> Such discussions characterised the *nagari* politics of Padang Sibusuek. The village could be incorporated into the pilot project, but only if they consented to give one of their *desa*, *Kampung Baru*, independence. Opinions differed whether this was possible and under which conditions it might be done. Not all *adat* leaders are opposed to such a split, but most do agree that this can only be done under their guidance and with their consent.

Gelanggang Tanah. The land is worked by the people there, and the harvest divided between the land owners and the tillers. Already my granduncle had newcomer clients there. Now they think that it is their own inherited property. The *desa* head of Lurah nan Tigo was also strongly against joining the former *nagari*: We do not want it to be as in former times. You thought we had a lower status. We were not well taken care of by our patrons“. In the course of the year, the opposition of Lurah nan Tigo became more open and aggressive and developments were reported in the local newspapers. The people of the *desa* declared that they would not participate in the meetings in Selayo. They also did not send a delegation to the village parliament that was to be formed. They had built their own Adat Council Hall (*Balai Adat*) for 12 million rupiah (Haluan, June 15, 2001). In June, hundreds of people went to the district capital Solok where they were received by the vice-chairman of the district parliament. They declared that they had been very content under the *desa* system and did not want to go back to the “old injustice” (Haluan, June 28, 2001).

This tension between *adat* principles and the idea of equal *nagari*-citizenship in Selayo has a long history.<sup>53</sup> Already 100 years ago, there had been impudent descendants of a female slave once bought by a member of an old lineage. They had been given rice fields out of that lineage’s inherited property stock. But now they no longer recognised their descent and claimed the property as their own inherited property and had pawned it without consent of the original property holding lineage. The case was decided by the Council of the *Laras* Head (*Tuangku Laras*) in favour of the old lineage head. The Dutch *Assistent Resident* endorsed the judgement. They then demanded that the government should force the lineage head to give them part of the common village land (*ulayat*). The *Assistent Resident* refused. They then made a petition to the Governor General of the Dutch East Indies. Their petition was strongly supported by the *Directeur van Justitie*, the highest official in the colonial Department of Justice. He argued that it was the government who had freed the slaves (in 1866) and now should help them. Also, it was the government anyway, who controlled the village common land according the Domain Declaration, through which all “waste lands” (*woeste gronden*) had come under the control of the colonial state. The *Assistent Resident* and the *Resident* of the Padang Highlands however contradicted this view. They were of the opinion that the abolition of slavery could not change the relation of dependence between a “mother’s brother” (*mamak*) and his adoptive nephews and nieces. So the petition was rejected by the Governor General, with a formulation that is still thought to be valid (certainly by old lineages) and which understandably worries the people in Lurah nan Tigo. It states that “taking into consideration that the petitioners would be given sufficient property for their livelihood by their mother’s brother if they behaved according to *adat*, there was no reason for the Government to take any measure in the case”.

In such cases, *adat* with its distinctions between old and newcomer lineages and their different rights in *adat* is underlying the conflict. However, these arguments are not used in the public discourse. It simply is not politically correct to mention these differences. It would offend those, whose lower status was referred to. Usually, only very veiled allusions are

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<sup>53</sup> This case is described in F. von Benda-Beckmann 1979: 259 ff., AB 11: 74ff.

made. Interview partners would not mention it themselves. However, those belonging to the old families would take up such a question asked by us, laugh, but also confirm “our” suspicion and mention “that it would be impolite to talk about it”. Only in very grave cases does it come into the open, when there is no other way for an old lineage to (re)claim their lineage property which had been given to lower status lineage members.<sup>54</sup>

## 2. Struggles for political unity: Going back to the *nagari* in Sumani

Even when there is a general consensus about the return to the *nagari* structure, struggles over political leadership intensify. One of such cases is *nagari* Sumani in Solok district. This village had exhibited an astonishing unity during the *desa* period. When the *desa* system was introduced, Sumani had been divided into 12 *desa*. Later the number of *desa* was reduced to two. Finally, in 1992, Sumani became one *desa*. In principle, this should have made the transition to one *nagari* easy. Sumani was selected as one of the pilot projects in Solok district to hold workshops with the German Agency for Technical Cooperation; not surprisingly, because the chairman of the district parliament was a citizen of Sumani. The workshops went well (see Laporan Sumani 2000). All people wanted to go back to the *nagari* and the workshop participants made a blueprint for the structure of the local government institutions, the village mayor, the village parliament and the consultative Adat and Religion Institution in June and July 2000. The position of the Village Adat Council, like in other *nagari*, was not discussed at the workshops.

However, the unity in Sumani was seriously disrupted by a severe conflict that split the local leadership in the Village Adat Council and led to the establishment of a rival council. The issue around which the conflict erupted was about the installation of a rich Padang merchant as lineage head. *Datuk* titles, the title of a lineage head, our informant said, are good in business. This installation was opposed by half of the Village Adat Council’s members, the allegation being that the candidate could not convincingly clarify his descent from the deceased lineage head. Nevertheless on September 30, 2000 he was installed and a couple of months later was made chairman of the Village Adat Council. The former chairman of the council had been head of the Golkar fraction in the Solok district parliament and had (therefore) lost his position. The opposition in Sumani installed another candidate as head of the Village Adat Council. So for some time, there were two lineage heads with the same title and two Village Adat Councils; the rival council was supported by the *desa* head. When the second lineage head was installed, open violence could just be prevented. Both parties had mobilised their troops; the merchant apparently had brought two trucks full of supporters from Padang. The rival party had asked the police for help. Then the problem was brought to the sub-district head (*Camat*). In early March 2001, there was a meeting with the sub-district head, in which the affair was to be settled and the unity in the Village Adat Council be reestablished. The sub-district head did not want to endanger the special status of Sumani as a pilot project *nagari*. He invited the *adat* elders of Sumani in writing, stating the points to be

<sup>54</sup> In a court case (Case 1 of 1970, PN Batu Sangkar) this principle was validated in court; the defendant’s lawyer had threatened a libel suit because his client had been called a newcomer (*orang datang*), see F. von Benda-Beckmann 1979: 263-265.

discussed and mentioning explicitly that those who would not attend would be regarded as having given their consent to all decisions made at the meeting.<sup>55</sup> According to our informant, an older adat leader of Sumani, all this was foreplay for the village mayoral elections. He was very pessimistic about the state of affairs. “Money politics” had entered the *nagari*. One probably would have to pay to become a member of the village parliament. There was little hope that the elections will be fair. He thought that they would need observers from outside the *nagari* for these elections.

## VI. Struggles over natural resource rights: *ulayat* in state law and *adat*

Decentralisation not only increases the political authority and power of village officials, it also has implications for control over village resources. Decentralisation requires the villages to generate their own revenues, as funding from the central government is expected to decrease. The combination of more political freedom, the weakened state apparatus and increasing influence of national and international NGOs and their bottom-up development policies has given a new impetus and force to struggles over natural resources between traditional or self-proclaimed local communities and the state all over Indonesia (see Li 2001, Acciaioli 2000). In Minangkabau, the most important issue in current legal and economic politics is the rights to natural resources on the territory of the *nagari*. The issue is of eminent importance because it deals with an historical injustice that has never been accepted and because village property is regarded as the most promising source of revenue for the villages. The most controversial claims regard village property (*tanah ulayat*) that had been put under state control by the so-called *Domeindeclaraties*, in West Sumatra enacted in 1874.<sup>56</sup> While the Basic Agrarian Law of 1960 recognised the rights of local communities to village property (*ulayat*) in an ambiguous way, state legal and administrative practices did not really take these rights seriously. This act has been contested throughout history because village governments claimed entitlement on the basis of *adat*. Under the Dutch regime, but more so under the New Order, much land was expropriated or “freed” under state legislation and exploited by the state. Some had also been exploited by para-statal enterprises or ‘privatised’ through licences and concessions to national or transnational enterprises, which were usually closely connected with the inner circle of the Suharto clan. According to a report in *Suara Rakyat*, the journal of the Legal Aid Bureau in Padang, the development of oil palm estates rose from 42,839 ha to

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<sup>55</sup> Some compromises were sought. The merchant *panghulu* should remain the new Village Adat Council chairman, but had to involve the other group in the further preparation of the *nagari* formation. But according to our informant, despite of the meeting about the restoration of the unity in the council, there is no real unity between the two factions.

<sup>56</sup> On the struggles and different legal interpretations under the Dutch colonial legal system, see Van Vollenhoven 1919, Logemann and Ter Haar 1927 with an *adat* friendly interpretation. See also the most articulated version of the state right interpretation by ‘s Jacob 1945.

186,027 ha between 1990 and 1999. In 1997, the total number of plantations on village land comprised 606,863 ha.<sup>57</sup>

The demise of the Suharto regime and the ensuing new political freedom has been used to claim back land and forest that was appropriated by the government. In the past, fear of repression had kept the local population from filing complaints, but this restraint is no longer necessary. As a result, numerous claims have been filed in court or put forward in political negotiations. Some land had been simply taken without compensation, for other land handsome amounts of money are known to have been given. Moreover, some land undoubtedly had the status of village land, but clan land had also been appropriated. Thus it is not always clear who the legitimate claimant is: the village government, the Village Adat Council, the head of one particular clan, all lineage heads within the clan, or even one particular lineage and its head. Many claims that the land was taken by force, or that at least strong pressure was exerted, are probably correct but the chaotic situation also provides ample opportunity for energetic lineage heads to claim back land that had been properly transferred without pressure and with proper compensation, or land that did not belong to their lineage in the first place (see Biezeveld 2001).

The ongoing discussions over the decentralisation and the new village government organisation do not clarify the legal situation. It is generally felt to be desirable that the provincial government enact a provincial regulation concerning these issues. We have already mentioned that the position of the National Land Administration Board is also unclear. Reacting on the increasing pressures, the central government issued a ministerial regulation concerning the recognition of village land.<sup>58</sup> It was the objective of this regulation to resolve the problems of *ulayat* land in *adat* law communities in Indonesia.<sup>59</sup>

What should have been a joyful event for proponents of *adat* based rights, was unkindly received in West Sumatra. At a workshop organised on August 5 and 6, 1999 by the Legal Aid Bureau in Padang to discuss this regulation, commentators spoke of an “injection to kill the *adat* law communities”<sup>60</sup>, although in the government rhetoric, this regulation was presented as safeguarding *adat* law communities. Why injections to kill?

According to Kamal (1999) there were three such injections. The first is a formulation in art. 1 that defines *ulayat* land as land that has been handed down through generations since ancient times and for which the relations between the *adat* law community and its territory (*wilayah*) have not been severed. This is seen as a great restriction, given the actual situation of much (former) *ulayat* land because the *ulayat* rights have to a large extent been destroyed

<sup>57</sup> *Suara Rakyat* No. 2 (2001), p. 14. 481,837 ha were based on a permit of the district head or the National Land Administration Board ; 125,025 ha on a use right title (*hak guna usaha*, HGU).

<sup>58</sup> *Per(aturan)Men(teri)Ag(graria) 5/1999*

<sup>59</sup> During the period of 1994 to 1999, the World Bank had carried out an ambitious project to revise and improve the agrarian legal system in which the status of the communal lands was to be explored (see Slaats 1999). While there is a voluminous report, it has so far not brought any clarity in the matter. According to Pieter Evers, World Bank consultant (personal communication), this regulation was not directly informed or motivated by the World Bank research project on communal lands in Indonesia, but rather a political move to contain local protests. See also Lindsey 1999.

<sup>60</sup> Injeksi mematikan untuk masyarakat adat: Catatan kritis atas PERMENAG No. 5/1999, by Miko Kamal (1999), director of the Legal Aid Bureau Padang.

through positive law of the state or by other uses of state power. The government itself has severed the relations between *adat* law communities and their territory through its formal law. One important instrument was the Presidential Decree of 1979 on the conversion of “western rights (*hak hak barat*)” into state land.<sup>61</sup> This Decree stated that all land which was controlled/held by the Dutch as plantations (*perkebunan*) had to be given back to the state as state land. The *adat* law communities, according to the formal law, thus had no more rights to such land because their relation to the land was already severed. In addition, the government has everywhere given rights to individuals or enterprises or governmental agencies. It is true that also the *adat* law communities have occasionally transferred *ulayat* land voluntarily, but this is a very small amount compared to the transfers of rights by the government.

The second injection, Kamal argues, is in art. 2, which states that the *ulayat* right is recognised as far as it *still exists in reality*.<sup>62</sup> This is a continuation of the earlier formulations in the Agrarian Basic Law of 1960. Certainly in the New Order regime of Suharto, the government decided whether or not “*ulayat* still existed”. The new regulation appears to be more democratic by stating (art. 5, section 1) that in the decision making process the *adat* leaders, the *adat* law community, NGOs and the institutions managing the resources have to be involved (*melibatkan*).

The third, and perhaps most important fatal injection is art. 3. It states that rights to the land recognised as *ulayat* by the Regulation, cannot be exercised over land a) which at the moment has been declared by the regional government to belong to private individuals or legal entities holding a right under the Agrarian Basic Law; b) which have been “freed” or otherwise obtained by governmental agencies, legal entities or individuals in accordance with governmental regulations. The regulation, Kamal concludes, thus validates all actions on *ulayat* taken by the government in the past.<sup>63</sup>

The rules of the state law and the transfers validated by it are now increasingly opposed. A variety of actors - villagers, the Legal Aid Bureau and the Association of Adat Councils – are mobilising a radical interpretation of *adat* law. According to this view, virtually all land in Minangkabau has an owner according to *adat*, and all *tanah ulayat* is *adat* land and “cannot” become state land. The Association of Adat Councils is particularly active in promoting this interpretation, through lectures and through their journal *Buletin Seri Alam Minangkabau*. In

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<sup>61</sup> Presidential Decree No. 32 of 1979.

<sup>62</sup> *Pelaksanaan hak ulayat sepanjang pada kenyataan masih adat dilakukan oleh masyarakat adat yang bersangkutan menurut ketentuan hukum adat setempat.*

<sup>63</sup> Syahmunir (2000) draws the same conclusions as Kamal and traces the legislative history of legal expropriation from the *domeinverklaring* to the Agrarian Basic Law of 1960 and the later acts through which inroads in *ulayat* have been made. Expropriation was regulated formerly through the colonial *onteigeningsordonnantie* (Stbl. 1920/574), and is now regulated through article 18 of the Agrarian Basic Law of 1960 and the Law No. 21-1961 which later was elaborated through Governmental Regulations (*Peraturan Pemerintah*, PP) 39 of 1973 and the Presidential Instruction No. 9 of 1973. The government made new regulations through the Regulation of the Minister of the Interior No. 15 of 1975 on the *Kententuan Mengenai Tata cara Pembebasan Tanah*. In 1993, Regulation 15 was withdrawn and replaced by Presidential Decree 55 of 1993 *Tentang Pengadaan Tanah Bagi Pelaksanaan Pembangunan untuk Kepentingan Umum*. The words “*pembebasan hak*” are no longer used. The new terminology is “*pelepasan atau penyerahan hak atas tanah*”.

2000, the leadership of the Association even issued a “*fatwa adat*” on the issue.<sup>64</sup> In August 2000 the Association had elaborated a draft for a provincial regulation concerning the use of *ulayat* in West Sumatra. Art. 1 describes *ulayat* as those natural and environmental resources that have been received by the people of the *adat* law community from the ancestors and which have been uninterruptedly inherited through the generations (1, i). The *ulayat* right is the authority of the *adat* law community to use and extract products for the continuity of the community’s livelihood (*bagi kelangsungan hidup maysarakat*, 1, j). *Ulayat* land is the land which is communally owned and which has been received from the ancestors and to this day inherited through the generations (k). The “fruits” (interest, share) (*bea/bungo*) of *ulayat* is the part of the earnings from *ulayat* given to the holder of *ulayat* as a consequence of the exploitation of *ulayat* (by another) such as the share from the wood (*bungo kayu*), the gold (*bungo ameh*) or the coral stone (*bungo karang*). Art. 4 states that the *ulayat* has a social function for the welfare of the *nagari* community, the members of the clan and lineage. In this interpretation, *ulayat* can be used by the members of the *nagari*, clan or lineage, but also by private enterprises and the government if they fulfil certain conditions, set by the holder of the *ulayat* right. The crucial point is advanced in art. 10. It states that *ulayat* that has been used by non *nagari* enterprises based on state law rights (exploitation rights, *hak guna usaha*, or use rights, *hak pakai*) or on other grounds, must be returned to the *ulayat* holder when the period of such use rights has expired.<sup>65</sup> For the present exercise of such rights, the holders of temporary use rights and the *ulayat* holders should as soon as possible deliberate how they clarify their mutual rights and obligations according to the valid *adat* law. Such disputes over *ulayat* first have to be dealt with by the Village Adat Council. If the parties cannot accept the council’s mediating decision, they cannot go directly to the state court but have first to submit their claims to the Association of Adat Councils according to the *adat* principle “you have to go up the stairs” (*bajanjang naik*, see K. von Benda-Beckmann 1984).<sup>66</sup> The journal of the Legal Aid Bureau, *Suara Rakyat*, devoted a special issue to the *ulayat* problem, which brought pictures of public demonstrations with banners with texts like “*Ulayat* land is not state land” (*tanah ulayat bukan tanah negara*, (no. 2, 2001).

In this period of legal uncertainty, and in the expectation that going back to the *nagari* means strengthening *adat* law based rights, open conflicts and negotiations about forest areas, plantations, water resources, sub-soil resources such as the coal mines in Ombilin and the land and materials used by the Cement Factory in Padang have erupted. In some cases, the district government has given parts of the *ulayat* territory that had been “freed” by the government and used by state or private organisations and enterprises back to villages. The local newspapers are full of reports of these events. The first successes have been booked. Some

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<sup>64</sup> In connection with the struggles around the land and resources used by the Cement Factory in Padang, see Pimpinan LKAAM Sumatera Barat (2000).

<sup>65</sup> Narullah (2000) for instance emphasises that according to *adat* law, once the period of a HGU has expired (he refers to the case in Sungai Kemuyang), the right returns to the *adat* right holder.

<sup>66</sup> Art. 13 states that *ulayat* can be registered with the National Land Administration Board (BPN), if all members of the matrilineage (*kaum*), or clan (*suku*), or the heads of all clans agree (*atas kesepakatan*). Such titles can only be used as security for loans with the consent of all members of the respective communities (art.14).

land has been put back under village control, some clans have successfully reclaimed their land or a part of the profits made by other enterprises with natural resources in the village territory. Influential migrants in Jakarta and elsewhere also play an important role in these struggles and help to balance the power relationships between state agencies and villagers (see Biezeveld 2001). However, while first successes have been achieved, it is difficult to predict the eventual outcomes, defeats, victories and compromises of these struggles. For apart from the struggles between local people and state agencies, every little victory also leads to new struggles over the distribution of the land and resources won back.

### 1. The case of Koto Hilalang<sup>67</sup>

The struggles around the land used by the Corporation PT Purna Karya in the *nagari* Koto Hilalang (District Padang Pariaman) is illustrative of these problems. In 1904, parts of the *ulayat* land had been rented to a Dutch-German rubber plantation. After independence, between 1945 and 1957, the estate was taken over by an association of retired military officers (*Purnawirawan PETA* and *Persatuan Purnawirawan ABRI*). After having managed the estate themselves, the Military Pensioners Association then lent it out to the Corporation PT Tandikat in 1962, the transfer being validated by the Agrarian Office. After the beginning of the Suharto Order it seems that the leadership of the Corporation had been involved in the communist coup of 1965. The military officers wanted to run the enterprise themselves again and established the PT Purna Karya Corporation. In 1992, the National Land Administration Board gave an exploitation licence to this corporation for a period of 25 years.

With the start of the *reformasi* period, the villagers of Koto Hilalang asserted their rights to the land, which they still considered their *ulayat* land. On July 25, 1998, the Family Organisation of Koto Hilalang in Jakarta wrote a letter to the Military Commander in West Sumatra (with copies to the Governor and other high state institutions) claiming that the land should be given back to the rightful owner, the *nagari*. Two military officers, members of the migrant association, signed it. Given the control of the land by the military and themselves being military officers, they thus chose to approach the Military Command in West Sumatra. They emphasised that their claim was based on the spirit of *reformasi* and on the demands of the president to combat corruption, nepotism and collusion. And, they argued there had been collusion, the Agrarian Office had not understood Minangkabau *adat* law and the National Land Administration Board in 1992 also had made mistakes and violated the law. They emphasised that the Army must take its role of guardian of society seriously and not give in to threats as apparently had been voiced by the Corporation: “whoever dares to challenge our rights to the Tandikat estate will be accused of having been involved in the communist coup and will get into difficulties with the military command”. Also the Village Adat Council of Koto Hilalang claimed the land back. There were demonstrations against the Corporation. After negotiations, the Corporation finally agreed to share the profit equally with the *nagari*. The village, however, was not satisfied. They also wanted their *ulayat* land back. The Village

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<sup>67</sup> This information is based on an article in *Suara Rakyat* No.2 (2001), and the letter written by the Koto Hilalang Association in Jakarta in 1998.



Adat Council formed a team to pursue this (*tim pengembalian tanah ulayat*) but apparently the team did nothing and the article in *Suara Rakyat* wonders why.

## 2. The spring of Sungai Tenang

The case of Sungai Tenang shows that the struggles over *ulayat* and profits made from *ulayat* resources by outside agencies is not confined to land and estates. In the middle of the 19<sup>th</sup> century, Fort de Kock became the most important military and administrative post of the Dutch East Indies Colony in the recently conquered Padang Highlands. The increasing demands for clean drinking water for the Dutch civil servants and the soldiers stationed at Fort de Kock could be satisfied by constructing pipelines from the village Sungai Tenang on the slopes of Gunung Singgalang, one of the three volcanoes that dominate the Padang Highlands. Before 1875, the water was mainly used in Sungai Tenang. Sungai Tenang was part of the *laras* Banuampu, a federation of villages. The water was not shared by the people from Kurai, the neighbouring *laras* in which Fort de Kock was located. The Dutch request to construct pipelines to Fort de Kock met with resistance. A local *adat* leader wanted to use the water for expanding the area of wet rice cultivation. After the local protest had been suppressed – the *adat* leader allegedly was poisoned - the pipelines could be built. But it was not until 1906 that the water connection was really functioning. A first pipeline was constructed, soon to be followed by another. The people of Sungai Tenang did not get any compensation for their water. After Indonesia's independence, the town, now named Bukit Tinggi, now however no longer dominated by a small racial and professional minority, grew and its water demands increased. In the 1960s new pipelines were built. Now, there are altogether six pipelines. A para-statal Regional Drinking Water Company in Bukit Tinggi manages the distribution of the water. The people of Sungai Tenang never received anything from the Drinking Water Company.

The people of Sungai Tenang had been complaining about this state of affairs for a long time. For them, the water was and had always been part of their *ulayat*, their village territory. *Ulayat* resources could be used by outsiders, but they had to acknowledge the rights of the village and they had to pay a share of the profits. But it was not easy to pursue these claims. Especially under the Suharto regime, the rural population had learnt, often the hard way, that openly questioning or even contradicting the government's interpretation of the legal order was an ungrateful experience. So whatever the people of Sungai Tenang and the surrounding villages thought of the continuous exploitation of their water source through the drinking water company, they kept rather quiet.

This changed with the *Orde Reformasi*. In September 1998 people started to discuss how they could get a share of the profits of the Drinking Water Company. They tried to enter negotiations with the company and the Mayor of Bukit Tinggi. The latter refused. So in 2000 they decided to cut the water off. This had been decided in a series of mass meetings in which young and old had participated, and in which some prominent sons of the village, among them a doctor, who was a lecturer at the university, had taken an active role. They had carefully prepared the move for some time, announcing several times in the local newspaper,

that they would do so if their demands were not heard. When the water was cut off the police came to Sungai Tenang. But they did not dare to enter the village and proceed to the source. About 1500 young men from all over Banuampu held a demonstration and prevented the police from entering. When the company realised that state legal force would not succeed, it was ready to negotiate. The eventual outcome was that Sungai Tenang would receive 6% of the water sales profits from the company. This is accepted and has already been paid once. Discussions continue over another one percent, for actually, their share should be 7%.

Here the rights held by the state, or derived from concessions or licenses given by the government, are successfully being contested. This contestation mobilises *adat*, or *adat* law, as an alternative source of legitimacy for claims over water. And manpower is mobilised to make this claim effective. In West Sumatra, and in Indonesia in general, such a case is not an isolated one; they have become quite frequent in recent times although their outcome is often still uncertain. For instance, not far from Sungai Tenang between Mount Singgalang and the coast, lies Lake Maninjau, a very big crater lake. At the flow-out point, there is a hydroelectric plant of the State Electricity Company. Here also, the villages have started to make claims to shares in the profit of the electricity company, basing them on the villages' rights to the lake as their *ulayat*. This struggle has not yet been concluded.

## **VII. Political rhetoric: actualising and redefining history, *adat* and religion**

The restructuring of state administration and decentralisation have resulted in a far greater interest in *adat* than there was during the New Order. In the first place, *adat* has acquired great symbolic and rhetorical importance, which fuels political activity related to these administrative and political changes. The discussions about going back to the *nagari* are presented and understood as giving a greater role to *adat* and the Village Adat Council, even though the new regulations may not necessarily give more powers to the council. Rhetorically, the regulations and the discussions are full of *adat* praise. The *desa* system and its creator, the Suharto regime, are the scapegoats for all social and political evils and *adat* is the magic charm that will bring a better future. At the provincial level, *adat* is a powerful resource for mobilising and legitimising opposition to the "Javanistic" political centre of the nation-state. A return to the *nagari* structure is thus a symbolic act within the wider national political debate. At local levels, the *nagari* government and the stress of *adat* values intend to eradicate or minimise many social evils: Reconstructing the unity and strengthening cooperation within the *nagari* community, restoring respect of the older by the younger generation by the strengthening of descent based groups and authority and the prevention of the selling out of *nagari* resources to outside "investors".

### 1. The reconstruction of history: Leadership and knowledge

In their discussions, district heads, parliamentarians, village leaders and ordinary villagers “actualise history” by intentionally “mobilising” an earlier form of local government organisation into the present as structure for the future (Giordano 1996). Once actualised, this past offers several different versions of *nagari* structure for concretising the future meaning of the past. However, these ideas remain based upon the realistic understanding that whatever form *nagari* government will ultimately get, it will be part of the state administrative and legal system. Most of the *nagari* models proposed form a complex mixture in which elements of *adat* are inserted into local government regulation. Reconstructions of “pure traditional *adat*” are resorted to mainly to clarify the nature and function of *adat* elements within the new complex structures. The most radical mobilisation of *adat*, and one that largely denies the political superiority of state rights, can be observed in the claims that assert the irreducible and unchangeable village rights to *ulayat* land from which state legislation can only derive lesser rights.

This mobilisation of the past, however, is selective and often rather romantic. As we have mentioned earlier, there are contradictory views and considerable uncertainty over the former position of the Village Adat Council in *nagari* constitutions before 1983. There are voices stating that the council was established in 1983 and that before that, *nagari* had no such council. This can mean different things: 1) That people refer exclusively to the official local government structure in which there was indeed no Village Adat Councils. These were functioning on an *adat* basis, alongside the institutions established by provincial regulations. 2) That there was no *adat* institution called *Kerapatan Adat Nagari* but one with a different name, for instance *panghulu* council (*rapek panghulu*). 3) There may be a general amnesia for those who had never experienced a functioning Village Adat Council. The impression we received of people’s knowledge of local government before 1983 in several interviews was rather mixed. Given the fact that only at the age of around twenty years people began to have some grasp of the system, only people over 40 years would be able to know anything about the period before 1983. Younger people thus may indeed have only scant knowledge about the system. This is accentuated by the fact that there is little awareness (for whatever reasons) of the earlier political and administrative history and the position of the Village Adat Council in the dualistic structure of *nagari*, as a largely not officially recognised yet consciously tolerated institution by the colonial and Indonesian governments.<sup>68</sup> It seems to be forgotten that also before 1979/83 the *nagari* had a dual structure, that there were constant problems between the Village Adat Council and the official *nagari* government and that often neither

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<sup>68</sup> Earlier research on this dualistic position, carried out before the 1979 law (Guyt 1934, Sa’danoer 1973, Naim 1973, Thalib 1974, F. von Benda-Beckmann 1979, K. von Benda-Beckmann 1984) is not reflected in the discussions. More recent research carried out during the *desa* period tend to paint a superficial picture of *desa/nagari* governance (see Alfitri 1994). Alfitri’s research pictures the pre-1979/83 *nagari* government only in terms of the official structure and makes no mention of the *adat* based Village Adat Council. He mainly refers to the relations between the *desa* head and the *desa* parliament, and on the power over government resources for village development. He does not even mention Provincial Regulation 13 of 1983 and the formal role of the Village Adat Council with respect to *nagari* resources and dispute management.

was strong enough to actually govern the *nagari*. Already in those times, the knowledge of *adat* in the village decreased; energetic men and potential *adat* leaders left the village, and the Village Adat Council did not function well as dispute settling institution (see K. von Benda-Beckmann 1984). There is little evidence that all this should be better in the new form of *nagari* organisation.

At *nagari* level, the reorganisation of *nagari* government has elicited a renewed keen interest in and reconstruction of village and lineage history. It has become very important again to know the history of settlement of a *nagari*, the history of clan and lineage cleavages and the history of inheritance because that is decisive for the procedure for and pace of *nagari* foundation and potential division of *nagari*. The interest in history is also spawned by land claims which actualise again the question of who holds village or matrilineal *ulayat* rights (see K. von Benda-Beckmann 1984, F. and K. von Benda-Beckmann 1994, Biezeveld 2001). The successes achieved in reclaiming village resources demonstrate how important the division of competencies among the new bodies of village government is. This has led to a great urge to move forward and score successes. It is important to put one's claims on the various tables, be it a proposal for a village government structure, the claim for a paramount position in village government, claims to land and forest, or the claim to establish one's own *desa* as an independent *nagari*. Moving forward quickly and energetically provides village leaders with the opportunity to shape the future village organisation according to their values and interests. It also means that funding will start flowing early. Speedy regulation and speedy land claims both are important devices to bind the future. They serve to establish a reputation of successful management in the village, which will be a strong legitimising factor in a situation that is subject to so diverse interpretations. It could well be said that these types of activities today have the same function as successful mediation in disputes among villagers and being present at important occasions such as land transactions (see K. von Benda-Beckmann 1984). As in former times, village history and village *adat* have to be restated and re-invented. But the arena in which this is done is not only the village setting as such. It also includes negotiations with higher levels of state government, notably the district and the province.

However, the expertise of highly educated and often not village based *adat* elders cannot compensate for their insufficient knowledge and involvement in and knowledge of village *adat* and lineage history. For most of the contested transfers of land to state agencies or outside investors no reliable documents are available. What remains is the oral village, clan and lineage history. And it is in connection with these issues that the recreation of history is most acute. The problem with this oral history is that recent decades have been marked by a dramatic decline in interest in the function of *adat* leaders. Yet the *adat* system was built on the legitimate knowledge of *adat* leaders who were required to hand down this official knowledge to their successors. Modern education and an oppressive regime that put little value on *adat* made the position of *adat* leader unattractive. To be sure, it had become fashionable for high state officials in the armed and civil service in Jakarta to show off with an *adat* title, but this was mere folklore and was not combined with any knowledge of *adat* matters.

Thus there has been a serious rupture in the chain of oral history. Today the office of lineage head has once more become attractive. Everywhere offices that had been vacant for many years are being filled again. Often well-educated and well-connected men are installed who live in the regional or provincial capital. They are close enough to their village to be able to come when there is a problem, while they are expected to mobilise their connections with the region and province when required. But these men also have little or no knowledge of many important *adat* matters. Knowledge of Minangkabau *adat* as a cultural and legal system, with its innumerable *adat* sayings, rules and maxims, is becoming increasingly available from books written by *adat* experts.<sup>69</sup> However, *adat* knowledge in the sense of village, clan, lineage and property history is only orally transmitted. For this, urban *adat* officials have largely to rely on their elderly, often female, relatives. It is this knowledge in particular which is required to assert and manipulate claims to political position and economic rights under the *adat* constitution.

## 2. Adat and Islam

The fact that *adat* has become a much more dominant political language has also generally increased interest in *adat* and demand for *adat* knowledge. *Adat* education has been given a stronger place in the school curricula and the publication of educational materials on Minangkabau *adat* has increased. This is all the more interesting, since *adat* had lost much of its appeal, while religion was on the rise during the latter years of the New Order Regime. The mantra quoted earlier “*Adat* is based on Islam, Islam is based on the holy Koran; religious law orders, *adat* is used; nature is the teacher of mankind” is still frequently used to emphasise the strong connection between *adat* and religion that together make up Minangkabau identity.<sup>70</sup> But the relative weight seems to shift back to *adat*. *Adat* is all about village government and rights to natural resources and it brings with it a new exclusionary emphasis on *adat*-ethnicity and political and economic rights. Islam does not and cannot fulfil this function, given its much more inclusive and trans-ethnic worldview. Proponents of Islam are relatively passive in the debates over the new village organisation and resource rights. Democracy on the one hand, and the return to *adat* on the other, leave little room for thinking of an Islamic state. The classical hot issue between *adat* and Islam, inheritance law<sup>71</sup>, is completely overshadowed by the big economic questions over *ulayat* rights, on which Islamic law has nothing to say.

There are, however, processes being pushed more strongly by Islamic politicians and leaders, that have created a parallel discourse to going back to the *nagari*, namely the “return to the *surau*”. The *surau* formerly were young boys’ meeting and sleeping houses. These were originally maintained by the matriclans; progressively, however, the *surau* was seen and treated more as a place for religious instruction. The *Kembali ke surau* movement also wants to strengthen the way back to the old values and traditions, when young persons still respected their lineage and religious leaders, and acquired knowledge by sleeping in the *surau*. While

<sup>69</sup> See for instance Batuah Sango 1966, I.H. Rajo Panghulu 1973, 1974, R.M. Dt. Rajo Panghulu 1971, Navis 1984.

<sup>70</sup> See on the *adat*-Islam relationships, Prins 1953, 1954, Abdullah 1966, F. and K. von Benda-Beckmann 1988.

<sup>71</sup> See Prins 1953, F. von Benda-Beckmann 1979.

there are few who would maintain that returning to the *surau* should be taken literally in the sense that young boys should indeed again sleep there, the movement clearly advocates a return to traditional Minangkabau values. The return to the *surau* discourse seems to be dominated by religious leaders and authorities. However, it is also seen as an *adat* matter; and the famous “*adat* is based on Islam, Islam is based on the holy Koran” is the rhetorical umbrella to bring the two together.

The same can be said for the attempt to legislate morality in the form of a provincial regulation on “societal illnesses” (*penyakit masyarakat*.) aiming at combating social evils such as prostitution, drug use and gambling. This made the headlines recently when the provincial parliament wanted to incorporate a curfew for women after 22:00 hours into the regulation. After very vocal protests, the proposal was withdrawn. But this matter is not monopolised by religious groups. The Association of Adat Councils also made a draft regulation in this matter. *Adat* proponents in the Association stress that they are experts on *adat* and Islam, while the religious leaders and Islamic organisations such as the Council of Islamic Religious Experts (*Majelis Ulama Indonesia*, MUI) are experts and representatives of religion only. And they adapt their discourse to include religious elements. A striking example is the already mentioned “*fatwa adat*”. While a *fatwa* is an authoritative legal interpretation of a point of law, given by religious scholars, it is used here by *adat* leaders in a matter of *adat* law, implicitly claiming religious legitimation for their statements as well.

But as we have mentioned earlier, these images of *adat* and its values are not uncontested. Rather than associating *adat* with a bright and democratic political, economic and cultural future, critical observers are afraid that going back to the *nagari* would mean going back to old fashioned ways of life, forms of authority no longer appropriate in a democratic state and with respect to modern human rights; especially if such authority is based on persons who no longer are respected, no longer know *adat* and the relevant history of their village political and economic constitution, and no longer live within the circle of their village kin. They are also afraid of the conservative backlash and moral crusade that accompanies discussion of going back to the *nagari* and *surau*. Other sceptics state that given the still dominant state administration, centralised or decentralised, nothing much will change anyway, and that villagers will always nod, obey or sabotage to what is ordered from above, despite all bottom-up rhetoric.

### **VIII. Some preliminary conclusions**

Decentralisation in West Sumatra is a dynamic and complex process. A multitude of actors move in and across several and often overlapping “semi-autonomous social fields” (Moore 1973), putting forward and negotiating their claims and proposals for instituting the structures for new local governance and resource rights. The different social processes taking place in small-scale locales, their preliminary outcomes and the ensuing social processes that together constitute “decentralisation” are highly interdependent. Many actors move through and

participate in different arenas including the different levels of the state administration, elite and ordinary members of village communities, as well as migrants living in Jakarta or elsewhere. There is an intense interest in knowing what has been said or decided in other arenas and information is sought and distributed at a high pace. This is facilitated by the widespread networks of which the main actors are part and by the easy forms of communication via mobile phones. The local newspapers (increased from two to seven in the past three years) are an important medium and constitute an arena themselves. Each day the papers are full of reports of activities, meetings of *adat* elders with district officials, the state of claims against plantation enterprises, the discussions of district draft legislation in *nagari* A and B, the official recognition of the first *nagari* and elections of *nagari* heads etc. Prominent *adat* leaders, university professors and journalists regularly give their interpretation of the pros and cons for going back to the *nagari* and the conflicts over resource rights, adapting their ideas to the most recent state of affairs.

The process is still in full swing and it is difficult at this stage to predict how the decentralisation process and the reorganisation of local government in West Sumatra will eventually work out. But it certainly has had effects already. The legislation on decentralisation has led to a shift in the power structure. Village government is going back to larger territorial and socio-political units in which the important clusters of the *nagari* inhabitants' social and economic relations no longer crosscut administrative boundaries as under the *desa* system. Whether all these developments will effectively change power relations within the new *nagari* cannot be confirmed yet, though it is likely to happen. It will also alter the political and economic relations with higher administrative levels, especially with the district government. One striking result of the process of decentralisation is that new alliances and new, horizontal, forms of organisation have been formed among governors, district heads, *desa* heads and *adat* leaders, that may change the character of Indonesia's state administration fundamentally. Moreover, greater political freedom and decentralisation policies already have had a great economic impact. Village elites and district officials have begun to restructure the economic landscape. While they were completely dependent on what the central government decided in the past, more and more decisions on exploitation of resources can and are taken at the district and village levels. Claims to land and participation in the proceeds of natural resources have started to be successful both in court and in political negotiations. It is also likely that the new tendencies of ethnic localism, at provincial, district and village levels, will gain in momentum.

These developments also indicate a shift in the Minangkabau configuration of legal pluralism and in the relative significance of *adat*, Islamic and state law elements. In the domain of political organisation, *adat* principles and institutions have become more significant. This is especially true in the sphere of ideology and political rhetorics, but we have also seen that many *adat* elements have been incorporated into the new structure of village government. Looking at this from the point of view of state policy, it looks very much like a new (or old) form of indirect rule, largely disguised through the rhetorics of bottom-up and participatory policy. But as in the past, governmental intentions do not determine village

realities. We have seen how state regulated general and free elections have been transformed in village practice into a form of selecting members in village institutions largely based upon *adat* principles. Apart from this, the main change seems to be within the power structure of the state. Islam as *political* ideology and legal system in use seems, in Minangkabau at least, to have lost significance. The times in which the corrupt and autocratic centralist regime could be unfavourably contrasted with Islamic political principles seem to have gone, for the time being at least. And so is the opportunity to combine Islamic critique with regional ethno-political aspirations. In the domain of economic rights, the revitalisation of *adat*-based rights is the most striking. As we have mentioned, the revived *adat* rights discourse does not simply present *adat* rights as something the state should recognise, but as rights that exist independent from state recognition, and to which state agencies and economic enterprises must adapt. In this domain, Islamic law has little to offer. But while Islamic law and Islamic legal institutions such as the religious courts<sup>72</sup> seem to become less important, Islam seems to remain strong in the social and cultural domain, as standards of morality and proper social relationships.

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<sup>72</sup> A first analysis of our data on the differential use of civil and religious courts in matters of property inheritance indicates that during the past 25 years there had been no shift towards a greater use of Islamic institutions, as is reported, for instance, from the Gajo Alas region in North Sumatra, Bowen 2000.



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