

THE EXISTENCE AND CHANGES IN THE MATERIAL JURISDICTION OF MINANGKABAU CRIMINAL COURTS IN WEST SUMATERA

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Abstract

Indonesia is a country with various ethnic composition of the population. Each of these ethnic groups or tribes certainly has its customary or *adat* law that is different from one another. The ethnic group that still maintains the validity and norms of its customary law is known as customary law community. One of the unique and well-known customary law communities in Indonesia is the Minangkabau customary law community. The majority of its members inhabit the province of West Sumatra. Minangkabau Customary Law not only regulates the civil cases that arise in that law community, but also the criminal ones. In the event of a criminal case, the settlement is carried out through the mechanism of the customary criminal court. The material jurisdiction of the Minangkabau Customary Criminal Court is regulated in a law called “the Nan Salapan Law” (the eight law). After the issuance of the Emergency Law Number 1 of 1951, the material jurisdiction of the Minangkabau Customary Criminal Court was narrowed down to cases that had no equal in the Criminal Code and those that were comparable in the Criminal Code with the same criminal threat. However, in practice, in recent years, there has been a contradiction where this customary criminal court no longer follows the provisions of the Emergency Law Number 1 of 1951. The scope of the material jurisdiction of this customary criminal court has undergone a significant change. This court not only adjudicates criminal cases that have no equal in the Criminal Code but also adjudicates cases regulated in criminal legislation outside the Criminal Code, such as cases of sexual abuse, narcotic abuse, and criminal acts of domestic violence (KDRT). The author in this article seeks to examine and elaborate further on what things affect the changes in the material jurisdiction of the Minangkabau customary criminal court and what are the views of Minangkabau traditional leaders and law enforcement officials, especially the police and judges, in responding to these changes.

Keyword: Customary Law, Criminal, Court, Minangkabau

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A. Background

Indonesia is a multi-ethnic country. According to the census conducted by BPS in 2010, Indonesia has more than 300 (exactly 340) ethnic groups spread throughout the Indonesian archipelago from Sabang to Merauke. Each ethnic group has values and characters that can be very different from the others. The differences arise both because of geographical conditions and different socio-cultural environments. Each of these ethnic groups then develops rules of social life that are adapted to the character of their respective environments and socio-cultures which we then know as customary law or adat law.

Although customary law has grown and developed since hundreds of years ago in community groups living in Indonesia, the term "customary law" was only popularized in the 19th century by Cornelis Van Vollenhoven, a Dutch legal expert through his book entitled "Het Adatrecht van Nederlandch Indie", which was published in 1913. According to Van Vollenhoven. Customary Law is the overall rules of community behavior that are applicable and have sanctions and have not been codified.² Furthermore, Van Vollenhoven divided the application areas of customary law in the Dutch East Indies (Indonesia) into 19 region of adat/customary law community.³

As a living law in the midst of Indonesian society, customary law has received recognition in the legal system in Indonesia. Article 18B paragraph 2 of the 1945 Constitution states that the State recognizes and respects customary law community and their traditional rights as long as they are still alive and in accordance with community development and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law.

One of the customary law communities that is unique and widely known in Indonesia is the Minangkabau customary law community. It is the only indigenous community in Indonesia that adheres to a matrilineal kinship system. This kinship system draws lineage from the mother's side only. Mother who is given the nickname "limpapeh rumah nan gadang" is the symbol of descent. The child is of the mother's tribe and is related to the relatives of the mother's tribe, based on the female lineage unilaterally. The consequence of this kinship system is that descent from the mother's line is seen very important, so that, it gives rise to social and familial relationships that are much more pervasive among its citizens who descend according to the mother's line.⁴

Until now, the Minangkabau customary law community still upholds the customary values and norms that are applied in its community. In the philosophy of the Minangkabau indigenous people, nature is viewed as a way of life in giving birth to norms that are able to regulate life, as well as guide their thinking and acting.⁵ The Minangkabau custom is the law or rule of social life in the community. It is created by their ancestors, namely Datuak Perpatiah Nan Sabatang and Datuak Katumungguangan. The rule sharply distinguishes humans from animals in behavior and actions. It derives from the virtuous and noble teachings among the people and their natural environment. Minangkabau customary law regulates the life of the community, both individually and collectively in every behavior in the

² Bewa Ragawino, *Pengantar Dan Azas-Azas Hukum Adat Indonesia*, 2008, Bandung: Fisip Unpad, p. 4

³ *ibid* p. 5

⁴ M. Rasjid Manggih Dt. Rajo Panghoeloe, *Sejarah Ringkas Minangkabau Dan Adatnya*, 1982, Jakarta: Penerbit Mutiara, p. 106

⁵ Ibrahim Dt. Sanggoeno Diradjo, *Tambo Alam Minangkabau Tatanan Adat Warisan Nenek Moyang Orang Minang*, 2009, Bukittinggi: Kristal Multimedia, p. 112

relationship so that each individual is able to cultivate an attitude of empathy for others.⁶

Minangkabau customary law is a very complex law. Not only does it regulate the civil matters, such as the control and inheritance of ulayat land (pusako land), Minangkabau Customary Law also regulates the criminal matters or cases. The regulation of criminal cases in customary law basically aims at creating security in the Nagari area in Minangkabau. To realize the rules on security, of course, first, it is necessary to find out what things can be a source of chaos. In the view of Minangkabau traditional leaders in the past, chaos arose because of crime, and crime occurred because people did not get satisfaction in fulfilling their needs, coupled with the bad morals and the inability to control passions. These three things are the most dominant factors for the incidence of crime.⁷

In the event of a crime occurring in the community, the Minangkabau Customary Law has also regulated the settlement mechanism through the establishment of a customary court institution. The customary court institution is a court that applies the customary law system for the yustiabelen (justice seekers) found in an indigenous community.⁸ So, the Minangkabau Customary Court is a customary court that has been held in the Minangkabau customary law area by using customary law or rules established by Minangkabau traditional leaders.

This customary court, which is held in accordance with the Minangkabau Customary Law has been implemented for a long time, or it has been carried out since before the Dutch colonial era up till now, this

modern era. Although there is a tendency in today's society to resolve all criminal matters through the general judiciary, the settlement of criminal matters through customary courts is still used in several areas of customary law communities, especially in the territory of the Minangkabau customary law community in West Sumatra Province. The decisions issued by the customary court institutions are not only recognized by the people living in the customary law area but have also been recognized in national law. This acknowledgment can be seen in Article 5 paragraph (3) sub b of the Emergency Law Number 1 of 1951 which essentially says that the decisions of the customary courts are recognized as long as they involve cases that have no equal in the Criminal Code and those with a comparison in the Criminal Code that are threatened with the same criminal offense in the Criminal Code.

Formally, the provisions in Article 5 paragraph (3) sub b of the Law above give recognition to the existence of customary court institutions. However, if viewed substantially, the provisions of the law, on the other hand, limit the material jurisdiction of the customary court institution. Customary courts can only try to the extent of offenses that are not regulated in the Criminal Code. And if there is a customary offense regulated in the Criminal Code, the implementation of customary justice for the offense can only be carried out, and the decision is recognized as long as the customary criminal sanctions imposed are the same as the criminal sanctions stipulated in the Criminal Code. This, of course, generally raises a problem in the implementation of customary courts, especially the customary courts in Minangkabau.

The implementation of customary courts for criminal cases in Minangkabau basically refers to the provisions contained in the Nan Salapan Law. The provisions stipulated in the Nan Salapan Law are the core articles, namely the articles that regulate evil deeds. When compared with the Criminal Code,

⁶ Idris Hakimy Dt. Radjo Penghulu, *Pokok-Pokok Pengetahuan Adat Alam Minangkabau*, 1986, Bandung: CV Remaja Karya, p 14

⁷ AM. Datuak Maruhun Batuah & DH. Bagindo Tanameh, *Hukum Adat Dan Adat Minangkabau*, Tanpa Tahun, Djakarta: NV, Poesaka Aseli, p. 93

⁸ Suardi Mahyuddin & Rustam Rahman, *Hukum Adat Minangkabau Dalam Sejarah Perkembangan Nagari Rao-Rao*, 2002, Jakarta: CV Citatama Mandiri, p. 26

there are a number of similarities between the provisions in the Nan Salapan Law and the articles in the Criminal Code such as: stab-kill which is the same as the provisions of Article 338 of the Criminal Code on murder, *samun-saka* is the same as Article 365 of the Criminal Code regarding extortion with violence, *sumbang-salah* is the same as Article 285 of the Criminal Code regarding adultery, and *maling-curi* is the same as Article 362 of the Criminal Code regarding theft. Although materially, there are a large number of similarities between the provisions of the Nan Salapan Law and the articles in the Criminal Code, the criminal sanctions that are threatened or imposed by the court for these evil acts are very different. In the Criminal Code, criminal sanctions are threatened for the evil acts above in the form of capital punishment or criminal deprivation of liberty (imprisonment). In the Customary Law and the Minangkabau Customary Court, the criminal sanctions as regulated in the Criminal Code are unknown. Criminal sanctions in Minangkabau Customary Law are in the form of moral sanctions, such as being discarded from the customary community or paying customary debts or fines which is accompanied by an apology. Paying customary debt or fines accompanied by apologies is carried out in public at a traditional banquet attended by all traditional leaders, religious scholars, and community leaders. However, after the enactment of Emergency Law number 1 of 1951, the customary courts relatively no longer handle cases based on the Nan Salapan Law because most of the provisions in that Law have been regulated in the Criminal Code.

However, in its development, there is an interesting phenomenon concerning the material jurisdiction of the Minangkabau customary courts when viewed from the context of Emergency Law Number 1 of 1951. In fact, the resolution of some crimes that fall within the realm of the Nan Salapan Law, such as stabbing-killing, *samun-saka*,

and stealing, are no longer carried out by the customary courts but by the national criminal courts. However, in the last few decades, the implementation of customary courts has been carried out for crimes or offenses that are not actually regulated in customary law. The customary court mechanism is carried out to resolve cases such as domestic violence (KDRT), narcotics, and even traffic accident crimes. And in reality, the decisions issued by the customary court institutions are responded positively by the community in the sense that the community accepts and actively participates in carrying out the decisions of the customary court institutions.

The above phenomenon, according to the author, raises several interesting issues to be studied. These issues include, among others, what things affect the changes in the material jurisdiction of the Minangkabau customary courts and how the views or responses of Minangkabau traditional leaders and law enforcement officers related to this phenomenon.

B. Discussion

1. The Development of Customary Courts in Indonesia

Customary justice institution is a judicial institution that applies the customary law system for people who ask for justice in a customary law community. The recognition of customary justice in the Indonesian legal system is found in the 1945 Constitution of the Republic of Indonesia, particularly in Article 18 B paragraph (1) and paragraph (2) and Article 28 I paragraph (3).

This recognition of the existence of the law community and its traditional rights in the history of law in Indonesia is dynamically interesting. Prior to 1945, the Dutch colonial government implemented a policy of legal pluralism by dividing the legal system into three types, namely: western civil law, law for foreign eastern nations, and customary law for indigenous people. Then, the legal unification process was pursued by the Indonesian government starting from the formulation in the 1945

Constitution of the Republic of Indonesia up to the enactment of Law Number 5 of 1960 concerning the Basic Regulations of Agrarian Principles (UUPA).⁹

Particularly, the existence of the term customary justice has been recognized before the Indonesia's independence, through legislation during the Dutch East Indies Government. At that time, there were five types of justice, namely the Governor's Court (Gouvernementsrechtspraak), the Indigenous Court or Customary Court (Inheemsche Rechtspraak), the Swapraja Court (Zelfbestuurrechtspraak), the Religious Courts (Godsdienstige Rechtspraak) and the Village Courts (Dorpjustitie).¹⁰

The customary courts has existed since the Dutch colonial era. The court was regulated in article 130 of the Indische Staatsregeling, a basic regulation in the Dutch government which stipulated that beside the courts by the Dutch government, other courts, such as customary courts in some areas which were directly under the Dutch East Indies Government and Swapraja Court were also recognized legally.¹¹

After the Indonesia's independence, customary justice institutions for criminal cases were still recognized with the promulgation of Emergency Law Number 1 of 1951. This law retains the provisions of the Ordinance of March 9, 1935 Staatblad Number 102 of 1935. This provision stated that the village peace judge is recognized as having the authority to examine all customary cases, including cases of customary offenses. In addition to the provisions in the Emergency Law Number 1 of 1951, the legal basis for the application of customary criminal justice also refers to Law Number 48 of 2009 concerning Judicial Power. The provisions in Article 5 paragraph (1), Article 10 paragraph (1) and Article 50

paragraph (1) of Law Number 48 of 2009 lay the basis for the existence of customary criminal justice.

In reality, the village peace judges usually examine customary offenses, both those that are not included or which are also included in the Criminal Code. However, the examination of customary offenses that have been included in the Criminal Code, has gradually begun to be taken over by the general judiciary. The community in certain customary law areas has begun to accept this matter and consider that it natural if the guilty party is tried and sentenced by a judge in the District Court with the rules regulated in the Criminal Code.¹²

2. The Existence and Change of Material Jurisdiction of the Minangkabau Customary Criminal Court

According to tambo adat of Minangkabau (Minangkabau history that is passed down from generation to generation through spoken language), Customary Law, including Customary Criminal Law of Minangkabau was arranged by two prominent traditional elders namely Datuak Parpatiah Nan Sabatang and Datuak Katumangguangan. Customary Criminal Law in Minangkabau was formed because of the need of each nagari to have a rule as the basis to create security in its environment.¹³

Nagari in the Kamus Besar Bahasa Indonesia (the Great Indonesian Dictionary) is an area or group of villages led by a Wali Nagari. The boundaries of the nagari territory are determined by nature such as rivers, hills, or forests. Traditionally, Minangkabau people live in groups with autonomous genealogical and territorial bond of a collective government based on customary law in a system of government called nagari. So, the nagari is the basis of the implementation of the customary criminal court in Minangkabau.

⁹ Herlambang P. Wiratraman, *Perkembangan Politik Hukum Peradilan Adat*, Mimbar Hukum, (2018), 30, (3): 493

¹⁰ *Ibid*

¹¹ Lilik Mulyadi, *Hukum Pidana Adat*, 2015, Bandung: PT Alumni, p. 70

¹² Ragawino, *Op.cit*, p. 119

¹³ AM. Datuak Maruhun Batuah & DH. Bagindo Tanameh, *Op Cit*. p: 93

To create security in the nagari, it must be known what things can cause chaos in the community. The chaos occurs because of crime. Meanwhile, crime arises because the need of the members of the society are not fulfilled. Bad morals and uncontrolled lust are also the main triggers for crime. Stability in a society can be achieved if crime can be eradicated. The eradication must be carried out fairly and through a very thorough examination process so that the guilty party gets a punishment that is commensurate with his mistake.¹⁴

Regarding the forms of crime, Datuak Parpatiah Nan Sabatang issued a regulation called the Nan Salapan Law (the Eight Law). Meanwhile, to determine whether someone could really be made a defendant, the Nan Duobaleh Law (the Twelve Law) was issued. The Nan Salapan and Nan Duobaleh Laws were inseparable. They became a unit which was later referred to as the Nan Duopuluh Law (the Twenty Law).¹⁵ This law was accepted and enforced throughout all Nagaries in Minangkabau.

The Nan-Salapan Law includes:

1. Stabbing – killing (injuring someone by stabbing with a sharp and pointed object – taking another person's life).
 2. *Upas – poison* (poisoning somebody but not causing death – poisoning somebody and causing death).
 3. *Samun – Saka* (taking other people's property forcibly – taking other people's property forcibly accompanied by murder).
 4. *Sia – baka* (lighting a fire – burning other's house).
 5. Thief - stealing (taking other people's property secretly at night - taking other people's property secretly during the day).
 6. *Dago – dagi* (the wrong deed of a nephew to mamak (mother's brother) – the wrong deed of mamak to nephew).
 7. *Umbuak – ambai* (tricking people by using good words – deceiving people with threats).
 8. *Sumbang - salah* (impolite behaviour – behaviour that violates social and religious ethics).
- Meanwhile, the *Nan Duobaleh* Law is divided into two parts, the first six are classified as “*cemo*” (bad name/ being despicable), the second six include “*tuduah*” (being accused). The systematics of the Nan Duo Baleh Law are as in the followings:
1. *Tatalah-takaja*, being caught in the act of committing a crime and being chased together by the villagers.
 2. *Tacancang-tarageh*, being injured by the weapon of the one that caught him and the clothes of the perpetrator are used as evidence.
 3. *Talacuit-tapukua*, being hit unintentionally because the perpetrators fight against at the time he is being arrested.
 4. *Putuih tali*, condition of the perpetrator when his alibi cannot be proven.
 5. *Tumbang ciak*, condition when the perpetrator is shouted at by the crowd.
 6. *Anggang lalu atah jatuah*, condition when somebody is seen at the crime scene at the time the crime is happening, so that people (who saw him) have a prejudice against him.
 7. *Bajalan bagageh-gageh*, suspicious behavior of a perpetrator, that is showed through walking in a hurry.
 8. *Pulang pai babasah-basa*, conditions of the clothes and appearance of somebody that give a clue that he is the perpetrator.
 9. *Manjua bamurah-murah*, criminal clue that is showed through selling goods below price.
 10. *Dibao pikek Mao langau*, rumor, about a suspect, that occurs because of his suspicious acts.
 11. *Tabayang tatabua*, condition when somebody is rumored as a suspect, because the crime happened is really the same as the one he ever did.

¹⁴ *Ibid*

¹⁵ *Ibid*, p. 94

12. *Kacondongan mato urang banyak*, being accused as a suspect of crime by most of the community members because of the criminal signs found on the behavior of somebody being accused..

According to the Minangkabau Customary Tambo, all the rules or laws were passed down to children and nephews only through spoken language. Everyone would memorize the laws or regulations. But later, there was an anxiety that someday, the rules or the regulations will be forgotten. Therefore, people began to record or wrote the law. The articles contained in the Nan Salapan Law were the core ones that regulated the handling of crimes in the Minangkabau Customary Law.¹⁶

Beside the criminal cases, the customary criminal court established by Datuak Parpatiah also hears cases of other violations of customary law. In order this customary court decision can be executed in accordance with applicable law, the responsibility related to the execution of the decision is left to the Hulubalang (dubalang).¹⁷

This customary criminal court was still running at the time Islam Religion came into Minangkabau around the year of 1250. This religion also brought a significant influence on the customary criminal court. The influence of Islam can be seen in the involvement of religious leaders (ulama) in the customary justice process and the acceptance of Islamic law as part of the Minangkabau Customary Criminal Law.¹⁸ However, the influence of Islam does not change the material jurisdiction of the Minangkabau customary criminal court. The implementation of customary criminal courts still refers to the Nan Salapan Law.

When the Dutch came and empowered Indonesia, the Minangkabau Customary Court began to be interfered by the Dutch government, especially regarding the threat of severe punishment. The Dutch proposed

to the traditional leaders that severe punishments was replaced by lighter sentences, especially regarding the death penalty.¹⁹ In addition, the Dutch also tried to turn the Minangkabau people into the colonial legal system for colonial political interests. This effort was considered quite successful. According to Jeffrey Hadler, the first attempt was made through a meeting held in Bukittinggi, the first was on April 6, 1865, and the second was on December 14, 1875. Both meetings were chaired by Timon Hendrcus Der Kinderen, an architect of colonial legal reform. Kinderen suggested to Van den Bossche, the Governor of the West Coast of Sumatra, to establish a regional bureaucracy, with local Dutch officials overseeing Minangkabau officials who would be responsible for implementing the legal rules in the form of a combination of customary law and Dutch colonial law. Based on Kinderen's suggestion, the Dutch colonial government authorized the Tuanku Lareh to run customary courts according to Minangkabau customary law but under the supervision of a Regent who was a Dutch and a representative of the colonial government.²⁰ Then, after the enactment of the Van Straafrechts Wetboek (KUHP) in Indonesia in accordance with the Staadblaad of 1915, most of the material jurisdiction of the customary criminal courts in Minangkabau, especially regarding crimes against body and life and property, was then taken over by Landraad (District Court in colonial era). This resulted in the changes in the material jurisdiction of the Minangkabau customary court. It became narrower. The Minangkabau customary court handled minor criminal cases only.

The existence of this Minangkabau customary criminal court did not change much in the early days of Indonesia's independence. Although the government of

¹⁶ Suardi Mahyuddin & Rustam Rahman, *Op Cit*, p. 29

¹⁷ *Ibid*, p. 32

¹⁸ *Ibid*

¹⁹ *Ibid*, p. 33

²⁰ Jeffrey Hadler, *Sengketa Tiada Putus; Matriarkat, Reformisme Islam, Dan Kolonialisme Di Minangkabau*, 2010, Jakarta: Freedom Institute, p: 121

the Republic of Indonesia issued Emergency Law Number 1 1951 which recognized decisions taken by the customary criminal court, it only concerned with the criminal cases that had no comparison in the Criminal Code and other criminal cases which were the same as the provisions of the Criminal Code as long as the penalty was lighter or the same as the Criminal Code. The provisions of this Law made the jurisdiction of the customary criminal courts overlap with the criminal jurisdiction of the district courts. This condition gradually made the Minangkabau customary criminal courts rarely used. The Minangkabau people are getting used to the settlement of criminal cases through district courts so that the jurisdiction of customary criminal courts based on the *Nan Salapan* Law is starting to be abandoned.

The customary criminal court in Minangkabau had no longer applied effectively because of the issuance of Law Number 5 of 1979. This law regulates the uniformity of the lowest government system in the form of *Desa* (village). This law does not at all accommodate the status and existence of special regional government units such as *nagari* in Minangkabau or *Huta* in Tapanuli. The *Nagari* government which was integrated with customary law and which became the basis for the implementation of customary criminal courts began to disappear from the life of the Minangkabau people until the end of the New Order era.

The existence of the Minangkabau customary criminal court regained its momentum in the reform era after the issuance of Law Number 22 of 1999 concerning Regional Government, beside, the Amendments of the 1945 Constitution The Law on Regional Government opened opportunities for the revival of the lowest, original form of government if the local community wanted it. The provisions in this law were then strengthened by Article 18B paragraphs 1 and 2 of the second amendment of the 1945 Constitution. In the provisions of

Article 18B paragraph 1 it is stated that the state recognizes special regional government units. Whereas in paragraph 2, it is stated that the State recognizes and respects the units of customary law community and their traditional rights as long as they are still alive and in accordance with community development and the principles of the Unitary State of the Republic of Indonesia. In Minangkabau area, West Sumatra, the response to the Regional Government Law and Article 18 B of the 1945 Constitution was realized in the re-implementation of the *nagari* government system as the lowest government unit. It is regulated through West Sumatra Provincial Regulation Number 9 of 2000 concerning the Basic Provisions of *Nagari* Government. The re-enactment of the *Nagari* government system in West Sumatra has become a trigger for Minangkabau traditional leaders to revive customary courts according to Minangkabau Customary Law.

The return of the *Nagari* government era causes the existence of customary criminal courts re-recognized by the Minangkabau community in West Sumatra Province. Customary criminal courts have become a common practice by Minangkabau indigenous peoples in the current decade. However, there is a slight change regarding the material jurisdiction of this customary criminal court. It is no longer run fully on the basis of the *Nan Salapan* Law. The customary criminal courts are no longer carried out for crimes that cause loss of life such as stabbing - killing and upas - poison. Based on interviews that the author conducted with several heads of the *Kerapatan Adat Nagari* (*Nagari* Traditional Assembly) in a number of *nagari* in West Sumatra, it is known that the traditional leaders agreed to submit cases concerning criminal acts that caused the loss of human life to police investigators and resolved through the general judiciary (the State Court). This is because there is no customary criminal sanction that can give satisfaction or fulfill a sense of justice for the victim. As for the criminal cases involving

property (such as theft) or concerning honor (such as *dago-dagi*), the settlement is still carried out according to the mechanism of the customary criminal court.

The material jurisdiction of the customary criminal courts is also carried out for cases of other criminal acts that are not regulated in the *Nan Salapan* Law, such as drug abuse, domestic violence, and traffic accidents. The implementation of the jurisdiction of the customary criminal courts in these cases is based on the aspirations of the *nagari* community who are in fact bound by kinship or ethnic relations with one another. Therefore, the customary criminal court is the first choice taken by the community because this court is considered to be able to reduce conflicts that arise in the community in the event of a criminal case. Besides, the jurisdiction of the customary criminal courts is considered to be able to reduce the social and economic costs of the parties involved in a case.

The tendency to choose the jurisdiction of the customary criminal court as the first preference in resolving criminal cases in a *nagari* is also aimed at avoiding to deal with the law enforcement officers. In Minangkabau people's perspective, being dealt with the law enforcement officers gives negative image. Minangkabau people have a very high sense of shame. When dealing with customary courts, the shame felt is only limited to the scope of one *orong* or *nagari*. It is different when dealing with formal law enforcers such as police, prosecutors, or judges, the actions committed by the person may become wider public consumption, especially if the case has been covered by journalists and then spread through the mass media. The perpetrator and his family will suffer tremendous shame as a result of the publication of his actions.

3. Responses from Traditional Leaders and Law Enforcement Officials Regarding the Existence and Change of Material Jurisdiction of the

Minangkabau Customary Criminal Court

The existence and jurisdiction of customary criminal courts in the Minangkabau community certainly has a considerable impact on efforts to enforce criminal law. The impact of the existence of this customary criminal court can be seen from the increasing number of criminal cases that are resolved through the customary criminal courts in several *nagari* areas in West Sumatra Province. Another impact can be seen from the decreasing number of minor criminal cases reported to the Sector Police Office (*Polsek*) whose jurisdiction covers the villages. Although there are no official figures or statistics regarding the increase or decrease in criminal cases handled by the customary criminal courts or by the *Polsek* in these villages, the writer obtained data on this matter through interviews with several *Wali Nagari* (Head of *Nagari*), traditional leaders who play an active role in the implementation of customary criminal courts and police officers, both those who serve as *Bhayangkara Pembina Kertertiban Masyarakat* (*Bhabinkamtibmas*) or Community Police Officer and investigators at the Sector Police Office (*Polsek*), who are in the territory of the relevant *nagari*. The villages where this research was conducted are located in three regencies in West Sumatra, namely: (1) Agam Regency (*Nagari Bayua, Nagari Guguak Tinggi, and Nagari Batutaba*), (2) 50Kota Regency (*Nagari Sungai Talang and Nagari Lubuak Batingkok*), and (3) Tanah Datar Regency (*Nagari Panyalaian*).

From the results of the author's interviews with the *Wali Nagari*, traditional leaders, and police officers, there are several interesting responses about the existence and material jurisdiction of this customary criminal court when viewed from the point of view of criminal law enforcement. The *Wali Nagari* and traditional leaders stated that *adat* criminal court was urgently needed to improve conditions of security and peace in the *nagari*. Therefore, they want the

customary justice institutions, especially the customary criminal courts to be strengthened and recognized by the regional government through a regional regulation (*Peraturan Daerah*), either in the form of a district regulation or a provincial regulation. In addition, these traditional leaders also request that the decisions made through these customary criminal courts be recognized by the state in the sense that judges in district courts should refer to or consider decisions that have been issued by customary criminal courts in the process of examining criminal cases and in making decisions in the trial in the district court.

C. Conclusion

From the description above, there are several things that can be concluded related to the existence and change of material jurisdiction of the Minangkabau criminal court in West Sumatra Province, namely:

1. Customary judiciary and customary courts are the institutions that have been born from the local wisdom of the Indonesian people since hundreds of years ago. These institutions have also received recognition from the colonial era to the government of the Republic of Indonesia.
2. The existence and material jurisdiction of the Minangkabau customary criminal court in West Sumatra has experienced ups and downs and changes along with the times and changing in the socio-political life of the Minangkabau community. These changes are basically influenced by several things, namely: a) the legal politics of the ruling government starting from the colonial era, the independence era to the reform era, b) the demands of the legal needs of the community who want a criminal court body that can reduce horizontal conflicts in the Minangkabau community and have flexible jurisdiction according to the development of the crime itself.
3. The traditional leaders and the *Wali Nagari* in several *nagari* areas in West Sumatra view this customary criminal court as a court institution whose existence must be recognized, defended and strengthened by the government either through the formation of laws and regulations or in law enforcement practices by law enforcement officials. As for police officers, the existence of customary criminal courts has made a positive contribution in helping and easing their burden in law enforcement efforts.

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