

The Effect of Policy of Rural Administration on Customary Villages; Experience of Rural Administration in West Sumatera Indonesia

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ABSTRACT

In nagari, there was a consultative assembly that had existed and had been inherited from generation to generation; this assembly is used to be called as Kerapatan Nagari that holds the highest power. Kerapatan adat Nagari is an institution that has developed for centuries; therefore the people of Minangkabau have orderly lived, organized under the leader of penghulu in the institution of kerapatan adat. Nagari as regulated in the regional regulation no 13 of 1983 its existence did not have function as the lowest government, but as customary-law social entity in the nagari. In the Regional regulation of 1983, regional government wants to develop and enrich national culture. It means that custom of Minangkabau is a manifestation of comprehension and implementation of Pancasila and the Constitution of 1945, it needs to be preserved. To make harmonious relationship between kerapatan adat nagari who implements Regional regulation No 13 of 1983 on one hand and chief of desa based on the act no 5 of 1979 on the other hand, regional government of West Sumatera has prepared counseling to the nagari indirectly, that is in the form of upgrading for the chiefs of desa/kelurahan (village).

Keywords: The effect, rural administration, customary village, west sumatra

INTRODUCTION

Nagari in West Sumatera has characteristics, among other things; babalai bamusajik (hall and mosque), basuku banagari (ethnic group and land); bakorong and bakampung (hamlet and village); balabuah batapian (road and border); basawah baladang (rice field and farm); bahalaman bapemedanan (yard and arena).

According to Iskandar kemal, "Kerapatan adat is the name for a customary administration of Nagari. What we mean by history is what had happened before this administration came into being, at the time of no man's land, until the announcement of Nagari.

Other term for nagari is negeri (land) or it is also called kewalian (proxy), and in the laws nagari is called village as well. Nagari is the unit of customary-legal people in Province of West Sumatera consisting of collection of several ethnic groups who have certain areas and goods. So it can be concluded that: a) There are several clans in nagari, b) The members of nagari administration consist of core clan administration, c) The members of one clan comprise matrilineal members, and for non-matrilineal member, by way of customary ceremony he or she can be appointed as the member of clan administration, and d) Administration area of nagari comprises composite of clan's tanah ulayat

Nagari is the unit of customary legal community, in its development it cannot be separated from political, economic, social-cultural and defense areas. So that it needs to be preserved and developed in accordance with the latest development, by granting it a status, function and role which fit public administration and demand of national development.

In the development of nagari, people still use customary law for their certain cases, where this customary law will eventually contributed to development of national law which generally prevails in Indonesia.

K. Von Benda Beckman is also suggested that many people use of adat authorities in disputes processing in Minangkabau villages, and that the authorities use of adat legal principles in the rationalization and justification of their conduct.

NAGARI ADMINISTRATION

In Indonesia, the lowest administration has general characteristics:

1. Administration of Indonesian legal associate in every place is in the hands of gembong or pembesar, kepala desa, kepala nagari, kepala urung, kepala negorai, and so forth. Among the pembesar there is usually a person (sometimes two people) who has the highest ranking or degree; in this administration he or she comes into power, whereas the other pembesar (high ranking official) become his or her assistant.
2. It can be said that in every place the most important decisions concerning general cases are settled in a meeting by all people of the associate (including women) or half of the people or members under the charge of those leaders and the influential member is he or she who has major vote.
3. On important matters, the leaders of the association hold conference with members, so that pembesar can be considered to act because of influence from and in accordance with common opinion in the association.
4. That in the appointment of customary leader and his or her assistants; hereditary is inescapable, but almost certainly is carried out by way of election or acknowledgment from the association.

There were eventually some changes and development in various places about replacement of the customary head (leader) via vote as in Europe, in fact those changes, however, do not have significant effect on it.

Kerapatan adat Nagari is an institution that has developed for centuries; therefore the people of Minangkabau have orderly lived, organized under the leader of penghulu in the institution of kerapatan adat.

Instrument structuring in Minangkabau follows differences from nagari structuring according to custom Bodi chaniago and custom koto piliang. Kerapatan adat nagari also serves as administration council and rule formation council, including court as well.

Nagari is a corporate form of bumi putra represented by kepala nagari and about order and authority and structure of nagari administration and other instrument are regulated by customary law. Nagari in Minangkabau, therefore, is granted discretion in managing its household, based on customary law.

Nagari basically has full-autonomy area led by penghulu, organized in the kerapatan adat nagari, who works based on consensus or policy alua jo patuik (line and proper). Internagari relationship is also carried out by kerapatan adat nagari.

West Sumatera has the order of customary-law communities is reflected in nagari. This institution had been developed for centuries before Dutch colonization came to Indonesia, especially in West Sumatera. In such long period of time, the people of Minangkabau have lived led by penghulu, organized in the institution of kerapatan adat in every nagari who runs administration based on consensus or policy alua jo patuik.

When Dutch came to Minangkabau, it saw social stability in nagaris under administration of the penghulu, and the administration had been capable of creating various kinds of culture, then the Dutch was very careful in positioning its power, this can be seen in good will from the Dutch with agreement as follows:

1. Handover contract/agreement of Minangkabau kingdom to the Dutch on January, 10, 1820, article 5.
2. Musang Agreement, on January, 20, 1824 point 2b.
3. Agreement of Kramat De Steurs, on November 15, 1825, paragraphs 2 and 7.

The Dutch wanted to start to lay down its colonial bases in the nagari, with Perjanjian Plakat Panjang on October 25, 1833 as follows:

Heads (leaders) and penghulu appointed as our representatives will be paid by Gubernemen, they will not be granted with great power, just work as our spokesmen, and they will give information to us about everything that can increase improvement or progression to you.

Nagari had also been granted by Dutch colonialism the rights to take care its household. This can be seen in article 128 IS, about Kerapatan Nagari we can see in the Inlandsche Gemeente Ordonantie Buitengewesten (IGOB).

After independence of Indonesia, there was Maklumat Residen Sumatera Barat no.20 and 21 on March, 18, 1946 about structural change of nagari, representative council of nagari, daily council of nagari led by wali nagari. Based on decision of West Sumatera Governor on 18-3-1963, no. 015/GSB/1963 on Regulation of Administrative Principles of Nagari in Western Sumatra, by stating that government or administration of Nagari are Wali nagari and Dewan Perwakilan Rakyat Nagari (legislative assembly), this decision, however, could not be implemented because anak nagari had tendency to return to Kerapatan Adat Nagari.

When the Act No. 5 of 1979 on rural government was operational, function of nagari administration in West Sumatra was finally over. The authorities of KAN did not exist in this act, since the lowest administration or government is village; it used to be jorong-jorong for nagari.

In the Act No 5 of 1979, rural government was part of the lowest governmental system that existed in Indonesia. The Nagari administration existing up till those days, its relationship could not be separated from historical background and had been acknowledged by the Indonesian rulers, but when the Act No 5 of 1979 was operative, it resulted in nagari administration as the lowest government in West Sumatra was over and it could not function any longer.

Implementation of rural government formation, as regulated in the act no 5 of 1979, it was stated that the Act still acknowledged the entity of customary legal community who uses the existing custom as long as it supports development viability and national tenacity, so kerapatan Adat Nagari was also granted the role in customary management or administration. In the nagari there existed Kerapatan Adat Nagari whose existence was unclear when the Act no 5 of 1979 on rural government is operational.

Government of west Sumatra was responsive, since it considered it was necessary to preserve the existence of customary legal community of Minangkabau, so on August 13, 1983 there was a very unique and fundamental regulation, i.e. regional regulation no 13 of 1983 on nagari as entity of customary legal community in the province of west sumatera, returning position, function and role of the nagari as the entity of customary legal community.

Nagari as regulated in the regional regulation no 13 of 1983 its existence did not have function as the lowest government, but as customary-law social entity in the nagari.

Rural government regulated in the act no 5 of 1979, stated that rural apparatus is customary legal office or authority with the officers or authorities who are entitled to appoint villagers for rural administration.

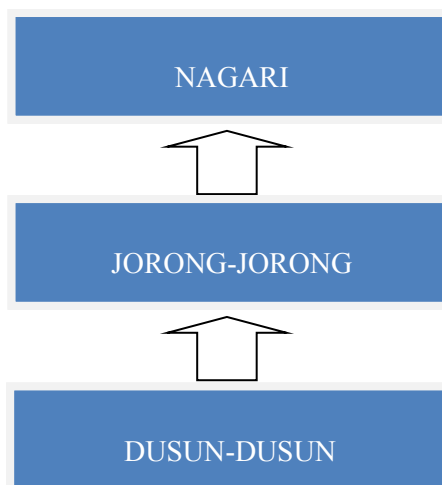
A small community who is entitled to hold its household is called legal community. This means that the rights to hold its own household what are called autonomy according to customary law.

According to article 1.a of the act no 5 of 1979 on rural government, village is an area occupied by a number of people or population as social entity, including legal social entity who has organization of the lowest administration or government that is directly under camat (sub-district chief) and is entitled to hold its own household in relations to Republic State of Indonesia.

Based on the aforementioned explanation about nagari that has similar meaning with village, where nagari as an area or a region of customary-law community and it is not a form of formal government but it helps to run the lowest administration in West Sumatera.

In nagari, there was a consultative assembly that had existed and had been inherited from generation to generation; this assembly is used to be called as Kerapatan Nagari that holds the highest power.

We can see the chart of system of the lowest government in West Sumatera before the Act No 5 of 1979 about rural government was issued as follows;



In the instruction of secretary of the interior no 9 of 1980 on implementation of the act no 5 of 1979 on rural government, stated that desa (village) is the term that now still uses its genuine name which prevails in regional province 1 in Indonesia as a whole except the capital Jakarta, for example; in West Kalimantan, desa is called kampung, in Aceh it is called Gampong, in Jambi, South Sumatera it is called dusun, in West Sumatera it is called jorong, and so forth.

In article 1.c, regional regulation no 13 of 1983, village is an area occupied by a number of people or population as social entity, including legal social entity who has organization of the lowest administration or government that is directly under camat (sub-district chief) and is entitled to hold its own household in relations to Republic State of Indonesia. Based on article 1.f of the regulation, nagari region or zone comprises several villages which cannot be

separated from each other, whereas inside the village there are several ethnic groups and several houses and they live a life together.

The existence of kerapatan adat nagari is still acknowledged as long as it concerns problems of the anak nagari, we can see this in regional regulation no 13 of 1983 on nagari as entity of customary legal community in the province of West Sumatera.

Effect on the Nagari Community

When the act no 5 of 1979 on rural government was operative, the lowest government or administration in Indonesia is desa or kelurahan, desa has the rights to hold its own household, whereas kelurahan does not have the rights to run the house (article 1 point a. b).

Desa (village) is jorong of the nagari can eventually cause conflicts in the nagari community, because they do not have the place to rely on, to ask for heirloom or heritage. Nagari also binds genealogically or territorially, where nagari consists of jorong-jorong and then become desa, administratively separated from other village.

Because nagari did not have function anymore as it was, after the act no 5 of 1979 on rural government was operative, then Kerapatan adat nagari did not care about rural development in its nagari area, they considered that rural development was the responsibility of government.

In fact, division of nagari consisting of jorong-jorong into desa (village) aims to stimulate development in west Sumatera, but it is not every jorong whose population as many as 1000 people, sometimes there is a jorong whose population comprises 500 people.

In the article 1.a of the act no 5 of 1979 on rural government, village is an area occupied by a number of people or population as social entity, including legal social entity who has organization of the lowest administration or government that is directly under camat (sub-district chief) and is entitled to hold its own household in relations to Republic State of Indonesia. Jorong is considered as an area of rural territory administratively separated from each other; in West Sumatera the implementation had an effect:

1. Jorong that has been admitted as desa does not possess its own wealth as sources of rural income in managing its own household, such as tanah bengkok desa in Java.
2. Facilities and infrastructure needed to support rural government are very limited because it is not previously well-prepared.
3. Social assessment and opinion toward the chief of jorong is still relatively low, because people see them merely as assistants of wali nagari.
4. Many villages which come from jorong have populations are less than 1000 people, while rural potencies are not the same.
5. Rural governmental apparatuses still need to be well equipped, qualified candidates are very difficult to be found out, because many educated and potential young men have moved to the city or gone out of the country.
6. Leadership in desa or village is still weak, because of low level of education and experience in carrying out the duties of administration in desa.
7. Change of jorong into desa prerequisites new agencies to be made, such as LKMD and LMD. These new agencies have been unfamiliar to the community, and they have not carried out their functions well.

In the Regional regulation of 1983, regional government wants to develop and enrich national culture. It means that custom of Minangkabau is a manifestation of comprehension and

implementation of Pancasila and the Constitution of 1945, it needs to be preserved. To make harmonious relationship between kerapatan adat nagari who implements Regional regulation No 13 of 1983 on one hand and chief of desa based on the act no 5 of 1979 on the other hand, regional government of West Sumatera has prepared counseling to the nagari indirectly, that is in the form of upgrading for the chiefs of desa/kelurahan (village).

Regional regulation no 13 of 1983 on nagari as the entity of customary legal community in West Sumatera, legalized by secretary of the interior on October 22, 1984 with SK no 140.23-868. With this legalization, it is expected that kerapatan adat nagari can walk hand in hand with chiefs of desa/kelurahan.

Kerapatan Adat Nagari as consultative body consists of ninik-mamak (public figures), alim-ulama and cadiaq pandai (intellectuals), they are called as tali tigo sapilin atau tigo tungku sajarangan (three in one, they cannot be separated from each other) who represent ethnic groups and jorong-jorong.

Nagari so far in west Sumatera carries out the duties of the lowest administration or government, and administers customary-legal social entity, custom and habits which develop in the community of nagari.

The existence of nagari as customary legal social entity needs to be preserved because nagari is the parentage of social life of Minangkabau people; they have emotional relationship with nagari.

Article 3 point 1 of Perda no 13 of 1983 states the function of nagari, this function is carried out by kerapatan adat nagari. With transfer of the administrative function from nagari to desa, it is necessary to relocate the position, functions and roles of the nagari as social entity.

According to aforementioned explanation, the functions of nagari can be broken down as follows: a) to build up and develop customary value and norm, b) to settle customary cases or problems, c) to bring about peace and legal assurance to the disputed members of community, d) to develop culture of the nagari people in trying to preserve regional culture in order to enrich national culture, and e) to preserve the existing and useful custom for national development.

Nagari is an area of customary-law social unit/entity occupied by a group of people comprising sets of several jorong, and in West Sumatera there are 543 nagari. Kerapatan Adat Nagari should be capable of increasing its real role and active participation in every aspect of life; economic, social cultural, order and other aspects or other social problems in order to increase regional development.

Regional regulation no 13 of 1983 on nagari as unit of customary legal community in West Sumatera had specified the roles of Kerapatan Adat Nagari whose function as partner of government in supporting rural development. The existence of nagari as customary legal social entity needs to be preserved because nagari is the parentage of social life of Minangkabau people; they have emotional relationship with nagari.

We can see the chart of the lowest administration based on the Act No 5 of 1979 on rural administration (government) with Perda No 13 of 1983, in article 11 defines the relationship is consultative between kepala desa (village chief) and Kerapatan Adat nagari.

CONCLUSION

Nagari as regulated in the regional regulation no 13 of 1983 its existence did not have function as the lowest government, but as customary-law social entity in the nagari. In the Regional regulation of 1983, regional government wants to develop and enrich national

culture. It means that custom of Minangkabau is a manifestation of comprehension and implementation of Pancasila and the Constitution of 1945, it needs to be preserved. To make harmonious relationship between kerapatan adat nagari who implements Regional regulation No 13 of 1983 on one hand and chief of desa based on the act no 5 of 1979 on the other hand, regional government of West Sumatera has prepared counseling to the nagari indirectly, that is in the form of upgrading for the chiefs of desa/kelurahan (village).

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