



## The Role of Religious Leaders in Resolving Ulayat Land Disputes



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### Abstract

The background to this research problem is that there is a dispute over ulayat land that occurred in Nagari Gadut, Tilatang Kamang District. So the role of religious figures was found in resolving the customary land dispute that occurred in Nagari Gadut. This research aims to see the role of religious figures in resolving customary land disputes in Nagari Gadut, Tilatang Kamang District. The type of research used is descriptive qualitative research methods using data collection techniques, interviews, observation and documentation. The results of the research show that there are disputes over customary land in Nagari Gadut, Tilatang Kamang District. The form of dispute that occurs between the plaintiff and the defendant. The plaintiff did not accept the defendant's desire for private ownership of customary land. Disputes lead to the severing of the relationship between the plaintiff and the defendant, the severing of relationships extending to children, grandchildren, relatives. So the plaintiff reported it to a religious figure to help resolve the dispute that occurred so that the relationship between members of the ethnic group could be resolved. Religious figures as judges in the form of disputes that occurred in Nagari Gadut. The roles of religious figures in resolving customary land disputes are: 1. Role as facilitator 2. Role as mediator, 3. Religious figure as mediator 4. Religious figure as advisor.

## Introduction

Indonesia society is very diverse. Public Indonesia consists from ethnic group, ethnic, custom ceremony, and culture Which vary. By Because That public Indonesia divided become a number of group. Public Minangkabau stay Of Sumatra West and is Wrong One ethnic group traditional Indonesia. According to mark culture public Minangkabau, "*Adat Basandi Syarak, Syarak Basandi Kitabullah*", everything action and rules in public must in accordance with religion and custom ceremony Arranged with rule custom for guard stability and life public. Law Land Known customs Also with Law *Right of disposal*, Law land, and Ulayat Land.

Land custom is something right Which owned or mastered by something ethnic group village Which have dominance above all over land along with its contents Which There is in region the. According to Imam Sudiyat (1982), a person member law land custom, land customary law is land owned by something public Which combined in something ethnic group (many, gen, stam, or combination villages (*village association*)). Usually business Which based village Public Minangkabau consider land is heritage Which special, represent connection between member public. Ulayat land is the highest right in Minangkabau owned by the headman, nagari, or clan. Customary land is a right owned or controlled by a tribe in a nagari which owns all the land and part of it.



Customary rights, namely the rights owned by a tribe within a nagari (*village association*). (Sudiyat 1990)

According to Kartasapoetra (1985), customary land, also known as ulayat rights, is the highest right to land owned by a legal association, such as a village or tribe, to guarantee the utilization and use of the land. People in the community also have rights to surrounding plots of land, and the head of the association in question, usually the chief or chief, regulates the implementation of customary rights. According to Minangkabau custom, there are four different types of customary land: *the king's customary land, the nagari's customary land, the tribe's customary land, and the people's customary land*. Tribes and clans each have customary land, meanwhile *high pusako*, which is given in its entirety to women, is in the form of communal land. (Hanani 2013) Minangkabau land has been acquired from generation to generation, so there is no certificate. This developed into one of the main factors contributing to land conflicts in Minangkabau. Everything on the land, including products from the bowels of the earth and outer space, is considered a customary land dispute and cannot be shared. (Nasrullah 1999)

Customary land disputes are a common problem in several Minangkabau nagari. Naga Gadut is located in Tilatang Kamang District, Agam Regency, to the north of Bukittinggi City. There has been a dispute there for the past three years. Kerapatan Adat Nagari (KAN) resolved eight ulayat land disputes in 2019, ten in 2020, and eleven in 2021. These relatives consisted of four *jinih ninik mamak ampek jinih: buhua arek, mamak kepala waris, mamak kepak kaom, pangka tua, and frankincense*. (Endah 2022) Conflict occurs because one clan member transfers their rights without the consent of all other clan members. Very few religious people lead Nagari Gadut in customary land disputes. The phenomenon of customary land increasing every year, which causes conflicts that continue to children and grandchildren and nieces and nephews, is one proof of this. There is an inheritance dispute in Nagari Gadut because members of the clan do not know about customary land rights. This is due to *theory help me, Pagan bamasiang, and hiduik bapangadok* which states that people from the clan who own the clan's customary land only have the right to enjoy it, not own it. (Haniva 2022)

One additional problem in Nagari Gadut is the sale of customary land by the kamanakan without the knowledge of the chief of the clan. Because the tribal chief's mamak was not in the village, "batiban hand tando" was even used, a term meaning a fake signature, because they were not there. In conflicts over customary land, ties of friendship are not established. The kinship relations that bind fraternal relations between people become increasingly disharmonious when each person leaves his or her own brother. (Interview with Masferiedi 2022) Customary land disputes are usually resolved

through deliberation and consensus. Disputes were handled by pangka tuo, buhua arek, mamak Kapalo Waris, and Mamak Kapalo Suhu. as a man who was harassed by his people, who helped resolve the customary land conflict.

Niniak mamak empat functions as a religious character as well. He plays the role of niniak mamak who is respected and listened to as well as a religious figure who can be a role model. Therefore, religious figures help resolve customary land disputes, educate people not to be greedy with inheritance, and change the morals of disputing parties in Nagari Gadut. People of this religion are known by society as *come back* ustadz or ustadzah who is more skilled in Islamic religious knowledge, who is respected and respected by society. There are still very few religious people who lead Nagari Gadut in customary land disputes. The fact that customary land increases every year gives rise to disputes that continue to children and grandchildren and nieces and nephews.

Ninik mamak ampek jinih is a religious figure in the community, such as Ustadz Salman from the Piliang community who works at the Religious Court. This is the subject of dispute in Nagari Gadut, where the Zulkifli clan's mamak Kapalo want to own the clan's ulayat land and profit from the proceeds for personal gain. Yosnita, Zulkifli's youngest sister, is not happy with the fact that other people own their customary land. Zulkifli and Yosnita had problems with Ustadz Salman regarding their customary land. There are several ways Ustadz Salman can help resolve these people's customary land problems:

1. Taught Zulkifli and Yosnita about the right to own communal land.
2. Teach them about religion about their own greed.
3. Find a way to divide the people's customary land rights and accept the consensus.

## **Research Method**

This study investigates how religious leaders help resolve customary land disputes in Nagari Gadut, Tilatang Kamang District. Qualitative descriptive methods were used in this research. According to Bogdan and Taylor, qualitative methods create descriptive data, speech, writing and behavior that can be observed from the individual or subject themselves. Data obtained through this method is considered correct, certain and has clear value. Qualitative research usually uses documentation and interviews to place a focus on exploration. (Ahmadi 2014) This qualitative research method is appropriate for analyzing the role of religious figures in resolving customary land disputes in Nagari Gadut, Tilatang Kamang District.

## **Ulayat Land**

Traditionally, ulayat land in Nagari Gadut is communal land owned by indigenous people within the Ulayat environment, according to the Minangkabau Traditional

Proverb, ulayat land is "*if you negotiate the land, whether it's a stick of wood, whether it's a clump of grass, whether it's a stone, why don't you go down to the moon, how come you're going to leave the male, the pangkek panghulu has the ulayat*" In other words, the ruler owned every part of the forest land, including a single tree, a blade of grass, and a grain of stone, from the base to the sand of the "moon" and higher. This shows that the ulayat area has boundaries agreed upon by other groups. Traditionally, ulayat land in Nagari Gadut is communal land owned by indigenous and the traditional leaders of the people have the rights to everything on the land, including plants.

The customary communal group, which consists of customary breakers, is led by the headman of the shoot. Penghulu buds have control over customary land. Each ulayat land is owned by its owner according to his level. Penghulu shoots, who are respected by their own people, are often mentioned *Niniak Mamak*. "Children on the nephew's lap in bimbiang" shows that the niniak mamak is responsible for his nephews, both biological nephews and other children from his descendants. Opinions from niniak mamak, *cadiak* clever, and *ulama*, who are referred to as "*tigo tunggu jejarangan*", is another part of the decision-making process of penghulu pug. These people are considered as a place to ask questions or *tampek batanyo* during the decision-making process, and penghulu pug cannot leave *tigo tunggu* to carry out policy.

Because the ulayat land in Nagari Gadut is owned by the maternal family supervised by the niniak mamak, the process of ulayat land ownership is not written down. Therefore, if there is a land certificate in Nagari Gadut, it means that it is *pusako randah* which was obtained through the family business of both father and mother, if they want to sell the ulayat land *pusako high*, they have to go through Niniak Mamak and negotiate with tribes or races. If the land sold is *pusako low*, they have to negotiate with *Mamak Kapalo* and Waris tribe.

The Ulayat Land of Nagari Gadut is not written down and is passed down from generation to generation through the mother's line. If there is a certificate containing *prona*, it must have come from the niniak mamak concerned or been given officially. Because customary land is not certified and can only be recognized by each tribe living in Nagari, no records have been made of how customary land is recognized in Nagari Gadut. Nagari Gadut's ulayat land has a special location. Certain tribes may have blood ties to customary land. Conflict that ends the relationship between the plaintiff and the defendant, which ends the relationship between the plaintiff and their children, grandchildren and relatives. As a result, the plaintiff had to communicate with religious figures to help resolve conflicts and resolve relationships between people. Therefore, religious figures are very important to lead Nagari Gadut and help resolve customary

land disputes. Religious leaders usually act as judges for the community to resolve problems in Nagari Gadut, including resolving customary land disputes.

Religious figures with religious knowledge, such as fiqh, creeds and morals, can be applied and help resolve customary land disputes so that disputes can subside. In this case, religious figures function as mediators or judges in the mediation process of customary land disputes to prevent customary land disputes from occurring again in the future. A religious figure in Nagari Gadut is respected for making fair decisions, which earns him respect and is seen as being able to resolve customary land issues. In the case of a customary land dispute, the head of the waris' mother chose to speak with the plaintiff and defendant and asked for help from religious figures. With religious figures knowing about it, it is hoped that peace will occur and all parties will be satisfied.

### **The Role of Religious Figures in Resolving Ulayat Land Disputes**

Regarding the process of resolving disputes by religious figures, the process is completed in two stages, namely as follows:

#### **1. Reporting Stage**

This is the first stage where niniak mamak, disputants, and disputants can report their problems to religious figures. Salman as a religious figure said: "The reporting party can come from the plaintiff or defendant. In cases like this, religious leaders will study the case so that they can provide initial suggestions so that the resolution can be resolved through deliberation or kinship." If religious leaders agree, the customary land dispute will be resolved. Religious people act as mediators and givers of advice according to their abilities. Religious figure Boris Ahmadi stated, "The first step we take needs to be to review the conditions that occurred, what the dispute is, and what the defendant and plaintiff's complaints are."

#### **2. Deliberation Stage**

If the disputing parties do not reach an agreement through advice, this deliberation stage is carried out. In situations like this, religious leaders can resolve problems by consulting with other traditional institutions without having to face district court. Now, religious leaders and ninik mamak, together with all traditional officials, are calling the two parties to the dispute for mediation and a deliberation process. Religious figures continued to provide advice on disputes during the deliberation process. This is done to ensure that the disputing parties can achieve peace and continue to follow religious rules and customs. At this stage, problems can be handled in stages because if there is a problem where both parties remain in their stance, religious leaders will try to resolve it through customary deliberation.

Religious leaders are responsible for providing religious advice to plaintiffs and defendants at this stage. So that each party is enlightened on how to resolve this customary land issue, and so that the decisions made can be made in accordance with Islamic law and do not violate customary rules, religious leaders must provide religious advice in accordance with Islamic law. After the second stage reaches a conclusion, religious leaders and traditional officials verbally declare the deliberation decision to the people involved and to other people. Religious people and niniak mamak only give advice verbally, not in writing. Because people usually really appreciate suggestions from religious figures, this was done. So a verbal decision is sufficient to resolve the conflict. According to Syamsul Basri as Ninik Mamak: According to Syamsul Basri as Ninik Mamak:

"If a proposal from a religious figure helps resolve a customary land dispute, the disputing party implements it, but if the results are not implemented, the religious figure will not be given sanctions."

Religious leaders must be involved in resolving customary land disputes in Nagari Gadut, Tilatang Kamang District in accordance with their obligations as religious leaders, even though they act as imams who are chosen to lead worship and prohibit what is prohibited by the Shari'a. Religious figures also function as reminders for niniak mamak if they do something wrong or contrary to religion in disputes on Gadut customary land. Religious people are responsible for informing both parties to a dispute about the religious laws that apply to ulayat land as well as the benefits and consequences of the dispute.

Religious figures chosen to resolve customary land disputes have the necessary expertise, experience and strength. It is very important that these religious figures are present because their decisions or research results could have an adverse impact on the parties to the dispute. Religious leaders are responsible for resolving customary land disputes. Religious figures or niniak mamak can directly convey the results of deliberation disputes. Religious figures can also convey their proposals or solutions from the results of deliberations. It is assumed that religious figures can accept and channel the desires of everyone, including parents and children, men and women. Several religious figures were selected for deliberations to find a middle way in the Gadut customary land dispute. They were asked to express their opinions on how to find a middle way and submit proposals that would be considered by the niniak mamak and then decided on from the results of the deliberations. There are four roles of religious leaders in resolving customary land conflicts:

- 1) As a Facilitator

By "providing a way out in facilitating the problem of customary land disputes by holding discussions with plaintiffs and defendants in an effort to

resolve the customary land disputes that occur," religious leaders assist and assist in resolving the Nagari Gadut land dispute in a harmonious and peaceful manner. No party is considered to have won or lost in the process of resolving customary land disputes. The aim of justice is to resolve land disputes, where the traditional head helps two parties to avoid disputes after the decision. Conflict arises if an unfair decision can damage family relationships, although in indigenous communities, kinship strengthens the family. Gadut people always use their local wisdom, which prioritizes family aspects in conflict resolution. Because local familial wisdom cannot resolve disputed issues, religious leaders act as intermediaries in negotiations and offer solutions to problems, such as providing religious advice on how to divide disputed land.

2) As Mediator

Religious figures also act as mediators in the process of resolving communal land conflicts. They take on the role of a neutral party or as a judge, taking matters into their own hands on both sides and then providing the best way to resolve the dispute. Religious leaders also act as mediators, which means they are responsible for finding solutions to conflicts and making the right decisions. Religious figures also play an important role in society, enforcing protocols and deciding legal issues related to the teachings of Islamic law. They maintain customs and syara', therefore when they make a decision for two conflicting parties, the action or solution must always be based on the applicable rules so that it does not harm either party.

This study shows that religious figures function as fair and unbiased intermediaries. Religious leaders must be able to negotiate well as mediators to maintain a peaceful atmosphere, prevent hostility, and offer solutions that minimize losses for both parties in conflict. Religious leaders must pay attention to many things when making decisions, especially regarding customary law because their decisions can have a big impact on society and cause divisions. In cases of land disputes, decisions must be made based on strong evidence from the statements of witnesses and family members who clearly know the brand's lineage and customary land regulations.

Religious figures help in conflict resolution in the land of Ulayat. They should give instructions so that the process of resolving land disputes is calmer and less emotional. Religious figures function as judges and peacemakers. All decisions taken must undergo deliberations made in front of witnesses who understand the history of land disputes and who conduct a search for the truth. Ninik mamak also protects the witnesses so that they are

not disturbed by the problematic parties. Behind that, the presence of witnesses will help religious leaders make decisions that are in accordance with customs and are logical. In the end, after reaching an agreement, social conditions will return to the way they were before the land dispute occurred.

3) As an advisor

Religious people give advice based on what they know. In addition, they prohibit actions that violate the law regarding customary land ownership. This religious figure guarantees a fair resolution of customary land disputes between the plaintiff and the defendant. The solution offered by the religious figure begins negotiations. The Nagari Adat Meeting (KAN) will be used by all parties who oppose the solutions offered by religious figures. Therefore, local wisdom cannot resolve family land conflicts. In informing the plaintiff and defendant about the positive and negative impacts of the dispute, the religious leader provided consequences regarding the negative impacts that would occur if the customary land dispute did not end in a peaceful manner. People in a clan are divided because of their ancestry over their customary land and the loss of friendship between them.

Basically, the smooth resolution of land disputes, both during the deliberation process and afterwards, really depends on how important deliberation is to resolve the dispute. The aim is to achieve conflict resolution that benefits all parties, all parties must be actively involved. In the case of Nagari Gadut, religious figures acted as courts; This community asked them for a solution because they did not understand Islamic law regarding the distribution of customary land. In conflicts that occur on customary land, each side has personal interests that are difficult to accept. As a result, religious figures are unable to explain the characteristics of both parties to the dispute.

## **Conclusion**

The results of the research show that customary land is jointly or collectively owned. Thus, people who use or manage the land cannot consider it as private property. Because this form of ulayat land dispute is contrary to customary law and sharia law, religious leaders must be involved in the process of resolving ulayat land disputes in Nagari Gadut. Apart from that, women believe that men are greedy just to bring them into their homes and make them property. their personality. In other words, men who wanted to control land did not want to try to help their families with their own efforts and efforts. In other words, they are just people who want to exhaust women's rights. Basically, women have full rights to own customary land. Men will oppose the agreement if the ulayat land is given in its entirety to women because they also want to



get a share of the ulayat land distribution. As a result, men started selling and dividing customary land to be owned by their families. No one wanted to budge, so this conflict would not end. Men continue to ask for women's rights as heirs to land, and women continue to defend them. To prevent disputes arising over this customary land, deliberation and consensus are carried out until religious figures function as mediators in disputes. This is done so that religious leaders can find solutions or solutions to problems. There are those who only believe that religious figures are a place to ask questions and talk about religion, to people who believe that religious figures have an important role or make decisions in customary land disputes. Because they have forgotten about how they were born as diverse people, they are expected to help society learn more about true religion. In ulayat land disputes, each party has selfishness that is difficult to shape and adjust, which prevents religious leaders from developing characteristics of both parties.

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