



## NAGARI CUSTOMARY JUSTICE SYSTEM IN WEST SUMATRA

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### Abstract

The state recognizes and respects indigenous and tribal people and their traditional rights insofar as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, as contained in Article 18 B paragraph 2 of the 1945 Constitution. However, the fulfillment of cultural identity and the rights of indigenous people have not been maximized. This study aims to find the conceptual model of the Customary Justice system in an effort to protect the existence of the rights of indigenous people to build the strength of civil society in West Sumatra. This research uses research and development methods. Data retrieval is done by survey, observation, interview, and Focus Group Discussion (FGD) methods. This study found that; 1) Minangkabau people have their own local wisdom in resolving customary disputes, even for a broader range of life issues, long before Indonesia was found, 2) *Nagari* Customary Justice system is a translation of *Limbago Adat* which is the life philosophy of Minangkabau people, 3) *Nagari* Customary Judicial institutional structure is a representation of the existence of the tribe in the *Nagari*, so that its cultural legitimacy becomes strong. And, 4) the *Nagari* Customary Justice system is an effort to build the sovereignty of civil society, namely an autonomous, independent, egalitarian, and democratic society. It is hoped that the results of this study will be a guideline in establishing the *Nagari* Customary Justice institution in West Sumatra.

**Keywords:** Customary Justice, Sovereignty, Civil Society, *Nagari*.

## I. INTRODUCTION

In Indonesia, there are 19 customary law areas, such as *Gampong* in Aceh, *Desa* in Java, *Nagari* in West Sumatra, as the elements and richness of Indonesian national culture (Akmal, 2008, pp. 1-2). Van Vollenhoven noted that indigenous people have their own laws that are important enough to be considered and quite potential to be developed, namely customary law (Sulaiman, 2017, pp. 98-110; Wignjosebroto, 2002, p. 139).

The state is obliged to protect and fulfill that direction, in article 6 paragraph (1) of Law No. 39 of 1999 states "that in the framework of upholding human rights, differences and needs in indigenous and tribal people must be considered and protected by the law of society, and the government", then in paragraph (2) states; "That the cultural identity of the customary law community, including the rights to communal land is protected, in line with the time".

The existence of state authority in processing land does not mean the loss of people's rights. State power over land is merely public (Harsono, 1999, p. 230) therefore, the state does not own any land. This means that law is seen as a resource used to legitimize its action. The law has contributed to the emergence of conflict and influenced any land conflict resolution. On the one hand, the state develops laws regarding the use of natural resources. On the other hand, the community also has laws relating to this issue. This is what triggers conflict, because of the clash between state agrarian law and local community law (Afriзал, 2003, p. 32).

When the law between the two groups is different, it will trigger a conflict. In view of conflict theory, society is always in the process of change which is characterized by continuous opposition between its elements. Whereas, the order in society is due to the pressure of power from the ruling class. Uneven distribution of power and authority is a

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factor that determines the occurrence of systematic social conflict (Ritzer & Goodman, 2005, pp. 153–164; Ritzer & Smart, 2012, pp. 283–286).

The dispute over *ulayat* land, for example, occurs because there is no juridical legitimacy towards customary land ownership. The conflict that occurred in the Caniago tribe with the National Land Agency (BPN) in Pariaman, indicating the presence of the state actually triggered the birth of conflict (Fitlayeni, 2015). Disputes occur between indigenous people in the process of matrilineal inheritance of Minangkabau (Aermadepa, 2016; Prasetya, Firdaus, & Hasanah, 2018), even disputes that occur between indigenous peoples and the government are due to the presence of development project investments (Mutolib, Yonariza, Mahdi, & Ismono, 2015). Likewise, customary land disputes that occurred in Aceh society after the tsunami, which led to conflicts between indigenous groups (Amalia, Mukhlis, & Yusrizal, 2018).

Settlement of customary land disputes can be carried out with the involvement of indigenous peoples' institutions. Empower and use the power of civil society in building community independence in reducing government interference (Suroto, 2015, pp. 665–666). For the context of West Sumatra, the existence of Law No. 6 of 2014 concerning Villages Chapter XIII on Special Provisions for *Adat* Village, which is derived in the form of Local Law Number 7 of 2018 about *Nagari*, is a legitimacy given to the community to manage the community life system using local wisdom, including in managing and resolving various conflicts and disputes over communal land. However, the problem will not stop with the existence of Local Law Number 7 of 2018. Technical guidance is needed on the operationalization of the roles, functions, and authorities of the Customary Justice Institution, in accordance with the social structure of each *Nagari*. The reason is that *Nagari* is an autonomous customary law area and has sovereignty that contains value as social capital and shows its existence as an indigenous community, which has people's sovereignty (Azwar, Yunus, Muliono, & Permatasari, 2018). *Nagari* has its own peculiarities and sovereignty, with a different socio-cultural system, which is called *adat salingka Nagari* custom.

Sociologically for customary law communities, the land is a social asset that functions as a communal identity (tribe or clan) and as a means of binding social unity. Meanwhile, the collective rights of indigenous peoples over land, according to Suriyaman Mustari Pide, in the literature of customary law, are called communal rights and are more popular with *ulayat* rights nomenclature (Akmal, 2008, p. 5). And, even though it is still

recognized by the state, none of the legal products regulates the way of implementing protection that *ulayat* rights are often threatened.

Some studies show that the existence of the collective rights of the Minangkabau indigenous peoples in West Sumatra still exists, as evidenced by the *ulayat* of the people, tribes and *Nagari* with various conflicts and dynamics (Aermadepa, 2016; Azwar et al., 2018; Fauzan, 2004; Tegnan, 2015). The study explained the existence of customary law communities in West Sumatra and various conflicts that emerged to maintain that existence. For example, the dispute over communal land. However, it has not yet found a model for resolving customary disputes through Customary Justice institutions based on the Minangkabau customary value system, as described in this study. Unlike other Southeast Asian countries such as the Philippines (Corpuz, 2012), Malaysia (Doolittle, 2012), Bangladesh (Roy, 2012) and Thailand (Trakansuphakon, 2012) which still use customary law in land or land use decisions. In southern Sudan, as many as 50 tribes still use the customary justice system (Penal Reform International, 2000, pp. 23–24) and in Guatemala, the people put the concept of the dimensions of nature, humans, and universes integrated as a unified concept of customary law in judicial discourse (UN-Habitat, 2015, p. 10). In Africa, about 80% of land issues are in the discourse of customary law (United Nations for Human Rights Office of the High Commissioner, 2016, p. 41). Whereas in Western liberal democracies (Faundez, 2003), the customary justice system is not dominant because it is more used as an integrated component in a state justice mechanism.

This study uses a sociological perspective, which aims to find the conceptual model of the *Nagari* Customary Justice system in an effort to protect the existence of the rights of indigenous peoples, to build the strength of civil society in West Sumatra. Therefore, this research is expected to be a reference in re-actualizing, restructuring, and re-functioning of the Customary Justice system in every *Nagari* in West Sumatra. This research is useful for managing and resolving conflicts between the government, investors, and customary law communities. At the same time, it clarifies the rights and obligations of customary law communities and law enforcement parties, including government bureaucracies and groups of investors or other legal entities. This research describes 1) the concept of *Minangkabau Nagari* Customary Justice, 2) *Nagari* customary justice system, and 3) the Traditional Court of *Nagari* as a strengthening of civil society.

## II. METHOD

This study uses research and development methods, which is the research process carried out to examine the *Nagari* Customary Justice system as one of the safeguards against the existence of indigenous peoples in West Sumatra. This research is a form of implementation of Law Number 6 of 2014 concerning Villages, which allows each region to develop Customary Village government in accordance with the local values that it has. Therefore, this research gave birth to a conceptual framework through academic studies of the system, structure, function, and authority of the *Nagari* Customary Court in West Sumatra, as the implementation of Local Law Number 7 of 2018 concerning *Nagari* in West Sumatra.

Using the opinions of Gall, Gall, & Borg (1989), the steps of this study are shown in Figure 1.

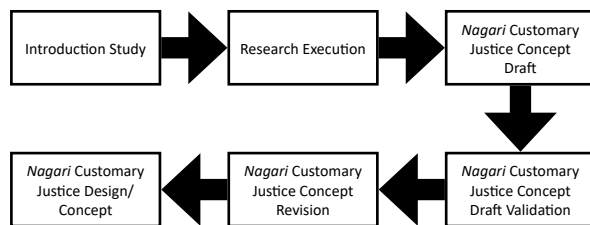


Figure 1. Research Flows

Data collection is conducted by surveys, observation, interviews, and Focus Group Discussion (FGD) methods. The surveys were conducted on all communities in each *Nagari* which became the research area using simple sampling techniques. This method is used to find out people's opinions about various custom disputes that occur in each *Nagari*. The data obtained through this survey then being mapped and classified towards customary disputes that occurred.

To find out some important information about the existence of *Nagari*, interviews were with indigenous community leaders. Interviews were conducted in depth to find a complete and comprehensive understanding of the development and dynamics of *Nagari* as a customary *limbago* (institution). The selection of key informants in each *Nagari* is based on the consideration of the reliability of the informant as the main source of information, namely the depth of his knowledge regarding the various information needed and his ability to provide guidance on other informants needed for research. The next informant is determined using the snowball technique. Information obtained from key information is used as the basis and guideline

for determining other figures or informants who can provide further information needed. The process of deepening information through informants on a chain basis continues to be carried out to the stage of saturation. That is, if the information obtained is no longer something new and tends to recur, then the interview process is considered complete (Azwar, 2018, p. 84; Azwar et al., 2018, p. 233).

Observations were made on the social dynamics of the developing *Nagari* community. For example, towards several traditional disputes (*ulayat* land) that occurred. Observations were made to improve information on some data obtained through surveys and interviews, in order to obtain a complete understanding of the institutional phenomenon of *Nagari*. Then, Focus Group Discussions (FGD) were conducted with the District Government, *Nagari* Government, *Kerapatan Adat Nagari* (KAN), and traditional leaders, religious leaders, scholars, and budo kundang in each research area. The FGD was conducted to find the structure of the *Nagari* Customary Justice structure, and the process of representation of each tribe in *Nagari* as a judge of the *Nagari* Customary Court.

Data analysis in this study was carried out through several stages; first, the data obtained through observation and interviews are completed, compared and tested with some other informants' information, through books, documents and related research results, which are then classified to give birth to categories. Second, the categories are then searched for the main characteristics to find out the similarities and their combinations. Third, the category is related to one another, so that a proposition is established. Fourth, propositions are linked to one another so as to build a final understanding of the institutions of the Customary Court of *Nagari*.

## III. RESULTS AND DISCUSSION

### A. The concept of the *Nagari* Customary Justice of Minangkabau

*Nagari* is the lowest government unit in West Sumatra and is a group of Minangkabau people who live based on customs with their rights, such as *ulayat* rights and historical rights of origin whose nomenclature is older than the nomenclature of Sumatra. The specialty of *Nagari* is not only from the aspect of history but also from the cultural riches whose peak may be called the supra tribal culture. This fact confirms *Nagari* as the core of Minangkabau (Azwar et al., 2018).

The strength of customary law communities, including those in the Minangkabau community, lies

in the existence of social institutions that are still alive in indigenous peoples. It is a social institution with a function to determine the form of relations and the limits of authority in every social relationship in the customary law community, including guarding *sako jo pusako*. The wealth of *sako* is immaterial, such as the lineage of the mother (*sako induak*), title (greatness), customary law, manners, mannerism law, and so on. Meanwhile, *Pusako* is material wealth, such as forests, fields, houses, artificial banda, *aie* stems, and so on. So it is understandable that there are many disputes of customary land that occurred in West Sumatra because people want to maintain their cultural identity.

Sociologically, the term Customary Justice is not a term commonly used in everyday life, even the term is almost never used in community relations. But researchers generally believe that the customary law community unit in Indonesia has a system of problem-solving that can be understood as a justice system. The terms used are very diverse, such as congregations, meetings, etc. (Aliansi Masyarakat Adat Nusantara & Partnership for Governance Reform in Indonesia, 2003, p. 8; Utama & Aristya, 2015, p. 62). Such conditions also apply in the Minangkabau customary law community unit in West Sumatra.

The concept of Customary Justice is explicitly stated in Law Number 21 of 2001 concerning Special Autonomy for Papua. This law confirms the recognition and respect of the state for the existence of Customary Justice in Papua. Customary Justice, according to Law Number 21 of 2001 Article 51 Paragraph (1) is a peace court in the customary law community, which has the authority to examine and adjudicate customary civil disputes and criminal cases among the residents of the customary law community concerned. Furthermore, in paragraph (2) and paragraph (3), it is determined that customary courts are prepared according to the customary law of the customary law community concerned; it has the authority to examine and try custom civil disputes and criminal cases based on the customary law of the customary law community concerned. In addition to Law Number 21 of 2001, the term Customary Justice is also found in the explanation of article 9 paragraph (1) of Law Number 18 of 2004 concerning Plantation, which explains that the existence of Customary Courts is one indicator that shows that a community unit customary law still exists in real life.

Referring to Article 51 of Law Number 21 of 2001 above, Sudantra (2016, p. 40) describes the concept of the Customary Justice, namely 1) Customary Justice is a judicial system that lives within the units of customary law communities

in Indonesia; 2) Customary Justice based on customary law; 3) Customary Justice is not part of the state justice system; 4) Customary Justice has the authority to try customary cases, whether in the form of disputes or violations of customary law; and 5) Customary Justice has the authority to try cases between residents of customary law community units.

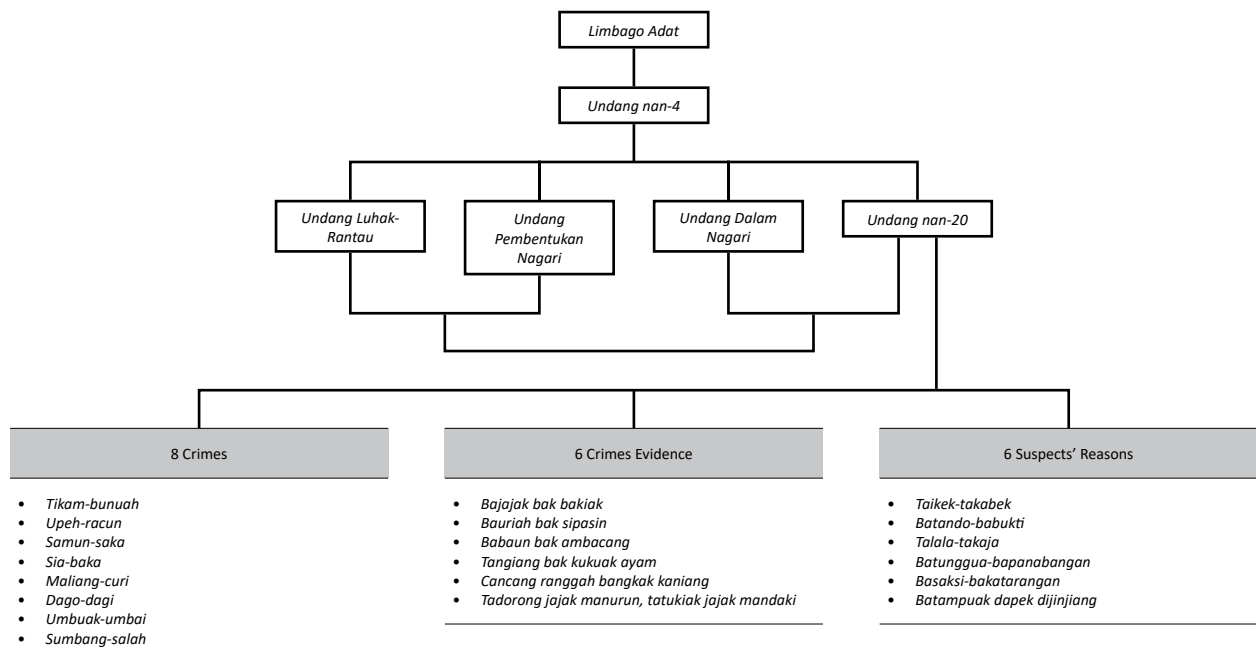
Law No. 6 of 2014 concerning Villages, Chapter XIII concerning Special Provisions of Customary Village, explicitly gives space to indigenous peoples who have the rights of origin to implement customary values in the system of Indigenous Village governance. This Law Number 6 of 2014 is confirmed by Local Law Number 7 of 2018 concerning *Nagari*, which specifically talks about Customary Justice.

The philosophical structure of Minangkabau customary law, which is a reference and guide in resolving cases and disputes within the community, is a description of the value system found in the *Limbago Adat* of Minangkabau (Azwar et al., 2018, p. 237), as shown in Figure 2.

*Undang nan-4* as a part of the *Limbago Adat* is a philosophical basis in the implementation of solving various problems of life by using local institutions that have long lived in the Minangkabau community. Hence, the actual dispute over *ulayat* land will be more effective in the scope of Customary Justice than the existing formal legal system. Therefore, whether or not there is state recognition or national law, actually the existence of Customary Justice has been going on for a long time, maintained for generations by local communities and/or indigenous peoples. Even the law and society have been united, entrenched, and not easily separated since before the Republic of Indonesia was founded (Pusat Penelitian dan Pengembangan Sistem Hukum Nasional Badan Pembinaan Hukum Nasional Kementerian Hukum dan Hak Asasi Manusia RI, 2013, p. 7; Ubbe, 2013, p. 164). So, in fact, various local cultural values and the diversity of habits of behavior in society are actually a wealth of values that guide the community in efforts to participate in the process of strengthening civil society.

## **B. Nagari Customary Justice System**

Customary Justice becomes important as customary disputes resolver. In the general justice system, it cannot resolve customary disputes, because the law on origin rights is not accommodated by the system of state legislation, such as civil law. For example, the law concerning the system of inheritance of assets in a matrilineal manner. So in the case of a dispute regarding *Ulayat*



**Figure 2.** Philosophical-Sociological Structure of Minangkabau Customary Law

Land, a public justice judge will delegate the dispute resolution to the customary law system. Herein lies the importance of the existence of Customary Justice, for resolving customary disputes that are not accommodated by the system and laws of general justice. That is, the state provides the broadest authority to indigenous peoples to resolve disputes relating to customary laws. For example, the dispute of indigenous peoples in West Sumatra in terms of the struggle for the right to use *ulayat* land, it will be resolved by the Minangkabau customary law system, not by the state's laws and justice system. In this context then used the meaning of *tali tigo sapilin*, in which the Minangkabau people in their life rules are bound by three laws, namely customary law, state law, and religious law (*syara'*).

On the other hand, quoting Sutjipto Rahardjo's opinion, indeed the government or state that has the privilege to regulate and interfere with public affairs. In the socio-anthropological context, these rights should be subordinated to the spirit of feeling (empathy), caring (concern), and maintaining (care), of how the local community accepts their customary law and their local law. Governing a very pluralistic country and nation cannot only be with the brain but more with the conscience (Rochaeti & Sutanti, 2018, p. 202).

In the perspective of law, various rules that are constitutional and statutory emphasize that customary law, as an unwritten law reflected in the value of justice and norms that live and grow in the community (the living law), is one source

of law that must be explored, considered, and respected, especially in law enforcement practices. In practice, even customary law does have a place in the administration of justice. At least this is reflected in various jurisprudence produced by the Supreme Court and the judiciary below. Therefore, it is necessary to examine various legal-normative perspectives regarding the existence of customary justice and empirically review the implementation of these rules in the Indonesian constitutional system (Utama & Aristya, 2015, p. 58).

It is on this basis that Local Law Number 7 of 2018 concerning *Nagari*, specifically which regulates the *Nagari* Customary Justice system, becomes important, it needs to be adjusted to the customary system and the original rights of each *Nagari* in West Sumatra. *Nagari* Customary Justice is a community dispute resolution institution in *Nagari* based on *adat salingka Nagari* mediation. Local Law Number 7 of 2018 concerning *Nagari* stipulates that in the *Nagari* Customary Justice system, there are several provisions, as follows:

1. KAN established the *Nagari* Customary Court as the highest community dispute resolution institution in *Nagari* according to *adat salingka Nagari*.
2. Before the dispute was resolved by the *Nagari* Customary Court, it must be resolved first at the family, *paruik*, the clans and tribesmen level, in a *ba janjang naiak ba tanggo turun* manner.

3. The duty of Customary Courts:

- a. Settle the dispute of *sako* and *pusako* in a *ba janjang naiak ba tanggo turun* manner.
  - b. Settle the customary civil cases through deliberation and consensus based on an agreement in the KAN assembly session which is "*kato putuih*" to be guided by the judicial institution.
  - c. Give customary sanctions to community members who violate customary law in accordance with the *adat salingka Nagari*.
4. *Nagari* Customary Justice is led by a chairperson and assisted by a *manti* and several member judges.
5. The term of office of the chairperson, member judge, and *manti* for Customary Justice of *Nagari* is 6 (six) years for 1 (one) period and can be re-elected.

Referring to Local Law Number 7 of 2018, after conducting in-depth discussions through the FGD with the District Government, *Nagari* Government, KAN Management board, and community leaders of each *Nagari*, the structure of the *Nagari* Customary Justice in West Sumatra is described in Figure 3.

Through the FGD together with the District Government, *Nagari* Government, KAN, along with indigenous community leaders, it was agreed, as well as referring to the Local Law of West Sumatra Province Number 7 of 2018 article 15, the formulation of membership of the *Nagari* Customary Justice was produced. The formulation of the structure and membership of the *Nagari* Customary Justice is a model for the formation of *Nagari* Customary Justice in each *Nagari* in West Sumatra while still taking into account the peculiarities of each *Nagari*, as follows:

1. Members/judges of the *Nagari* Customary Justice are not members of KAN.
2. Customary Justice is selected and determined by KAN in consensus meetings, whose members represent tribal representation in each *Nagari*.

That is, each tribe is represented by one person as a member/judge of the *Nagari* Customary Justice.

3. The process of selecting/stipulating members of the Judiciary of the Customary Court is through the following stages:
- a. Each tribe proposes three prospective members of the *Nagari* Customary Justice to KAN who are chosen by consensus.
  - b. KAN chooses 1 (one) person from 3 (three) candidates submitted from each tribe to be determined to become members of the Customary Justice, by consensus.
  - c. *Manti* was chosen and determined by KAN in a consensus meeting based on proposals from KAN members in the density assembly by considering professionalism, skills (capability), and propriety. And, not a member of KAN.

Therefore, in the context of resolving various disputes in the community, especially relating to the dispute over the use of *ulayat* land, it is the duty and authority of the *Nagari* Customary Court, because it is related to the problem of *pusako*. When this dispute is brought to the General Court, the court ruling will still refer to the customary system that applies in the *Nagari* where the dispute occurred. Even in some cases, disputes can widen to wider and anarchic conflicts, because the general court system faces difficulties in deciding cases related to customary law systems and norms (Warman & Syofiarti, 2012, p. 413).

*Nagari* empirically has the power that allows regulating the people who are in the arena of their power. The people in *adat salingka Nagari* are placed as supremacy in the legal power structure. Customary institutional structures are created in an effort to balance the management of power in addressing issues that arise in the community (see structure in Figure 3). This idea of having harmony with the perspectives spoken by Machiavelli and

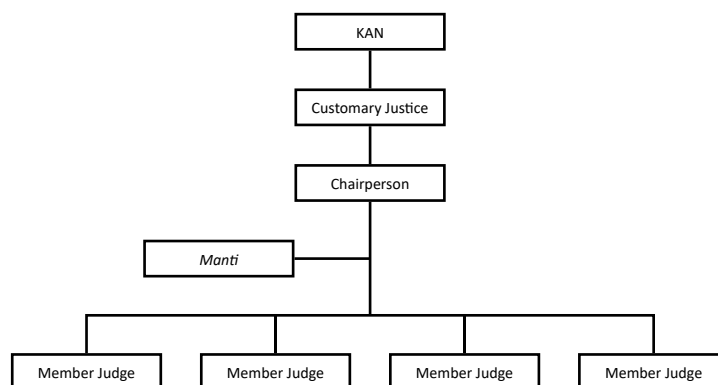


Figure 3. Philosophical-Sociological Structure of Minangkabau Customary Law

Parson (see Maliki, 2016; Puspitasari, 2001, p. 34) by exposing that sociological power contains elements of supervision and encompasses all rational legitimacy, free from the idea of God (perspective of deity). The difference is that the Minangkabau community emphasizes the concept of communal power not personal (king) as Machiavelli thought. The justice system is created as a channel where the order node is formed.

Irregularities usually occur above dominant power, both in individual relations, as well as groups (local communities) and the state. State power is often regarded as a “superpower” which defiles other powers as a reality that exists in public relations. Foucault described anti-thesis on the meaning of power as a macro concept as narrated by many thinkers. For Foucault (Afandi, 2012, p. 133; Foucault, 1980), power is one dimension of relations. Power is everywhere. Where relations exist, there is power. That meaning reveals a dominative veil that is far more critical. Philosophical power deals with kindness, virtue, justice, and freedom. Heeding the power of authority at the local level can be seen as the way of the good relations of the state-citizens to achieve what is called civil society. An aspiration for a state and nation life.

At least the reality of the conception of Customary Justice contains the meaning of how the customary court should be in relation to the national justice system. The content can be seen from two aspects (Utama & Aristya, 2015, p. 58). First, integrating customary courts institutionally into becoming part of the national justice system. This idea provides strong strength for decisions made by customary courts. Second, substantial strengthening of customary courts without the need for institutional integration. The goal to be achieved is the deconcentration of caseloads that accumulate in state courts, so what is needed is the availability of a variety of options for resolving disputes in the community.

The distribution of power, especially to indigenous peoples, will make the customary system firm and reduce legal chaos between state-citizen relations in the context of indigenous peoples. For Minangkabau people, the *Nagari* Customary Justice system acts as a social convention of society as the main legitimacy of the power system. This social legitimacy can be seen in the terms of *pitaruah indak baunian, pakirin indak baturuikan*. This term refers to “social trust” in building and strengthening community institutions independently. In the sense of *Nagari* sovereignty as an autonomous government.

### C. *Nagari* Customary Justice as Civil Society Reinforcement

Sociologically, law reality is formed on the basis of values that exist in society. Therefore, the conception of Customary Justice is a kind of necessity that cannot be ignored. The state has an important role in caring for the richness of cultural values, including the Customary Justice system, which practically can be said to have existed before the existence of state law. For the Minangkabau people, the conception of Customary Justice has become an important part of managing society long before Indonesia became a country. Even the Trias Politika concept of power (Azwar et al., 2018) proposed by Montesquieu seems to have been part of the Minangkabau community before the theory was initiated.

Customary law is said to originate from life norms that arise as cultural products, formed from generation to generation based on the value of consciousness and manifested in living habits using their measure of reason and sense of justice (Sugiswati, 2012, p. 32). The fact that the Customary Court basically strengthens civil society as a natural product of the community itself. Civil society places an independent society that can regulate itself with all its laws. For example, the dispute over customary land boundaries between people in *Nagari Lawang* due to the seizure of natural tourism assets, which was resolved by adat by the KAN customary court. This dispute is resolved independently by the community using customary norms of promise and compliance with the law, without having to go through the general justice process. Theoretically, the concept of civil society leads to a civilized society. As according to Nurcholish Madjid (Fazillah, 2017), there are three formulations regarding civil society, namely democracy, civil society, and civility. Civil society has characteristics of egalitarianism, openness, law enforcement, and justice, tolerance and pluralism, and deliberation. A place for democracy is civil society and various types of unions connected to be a shield between the state and its citizens. Civility refers to the ethical qualities of the community in the form of tolerance, openness, and freedom that are responsible. And, civil society is very much determined by the quality of civility possessed by its citizens.

Historically, the term civil society can be traced since ancient Greek time. Ernest Gellner (Jb & Darmawan, 2016, pp. 36–38) mentioned that the term civil society was popularized by Adam Ferguson (1723-1816) and developed by modern thinkers such as John Locke, Rousseau, Hegel, Marx, and Tocqueville. Jean L. Cohen and Andreo Arato

also trace the roots of emerging civil society. They revealed that the beginning of the concept came from Aristotle when he revealed the term *politike koinonia*, a political society, which refers to the polis. The term “*politike koinonia*” refers to the political and ethical society in which citizens are domiciled in the eyes of the law. The law itself is considered an ethos. An agreed set of norms and values is not only related to political procedures, but also as the basic substance of policies in various forms of interaction between citizens. Jean L Cohen and Andreo Arato see the concept of *politike koinonia* with two different entities, namely the community of society, in the sense of organized collective unity as a forum for the state with the sole purpose of being a derivation of Oikos. On the other hand, “society” includes forms of pluralistic interactions in the form of informal groups. Civil society in further meaning, as revealed by Cicero (Jb & Darmawan, 2016; Parmudi, 2015; Wajdi Ibrahim, 2012, p. 134) refers to a civilized political community and has a legal code as a basis for living arrangements. The existence of a law that regulates relationships between individuals marks the existence of a community which is understood as the independence of citizen activities in dealing with the state (Mawardi, 2015).

The presence of indigenous people is a reality that cannot be denied by the government. Although formal recognition of indigenous peoples in the constitutional structure is indeed contained in the Law (Article 18), but within the scope of international relations, the government seems to still be halfhearted in recognizing the existence of indigenous peoples with all their rights and obligations, amid recognition by other countries such as the Philippines and Malaysia (Sugiswati, 2012, p. 36). The distribution of power and authority becomes important, where the development of civil society is fully formed. The distribution of authority in the form of acknowledgment and delegation of authority above a proposition of restrictions on power, which is part of the government and which is part of the rights of indigenous peoples.

This distribution is a form of the community's independence process in the judiciary as a framework for resolving problems related to the enforcement of justice in the arena of the *Nagari* community. That is, the distribution of authority is to strengthen and provide juridical recognition of the Customary Court. An independent society as a cultural feature of the Minangkabau community can be realized because it supports the strengthening of identity in the form of equal recognition and treatment on the basis of political, economics, and socio-cultural rights at the local level. Furthermore, it is to safeguard and preserve cultural values that

are the characteristics and have a strong loyalty to the ethnicity they have.

#### IV. CONCLUSION

State institutions exist to guarantee the freedom of every citizen. The will of the state and citizens are created not to conflict. This fact can be characterized by the presence of the natural state of the individual who lives in it in such a way. Thus, every community group in the country does not lose anything from its individuality and natural cultural values. Various forms of power in sovereign societies do not originate from one thing but from various diverse factors contained in the nodes of local wisdom. In other words, the relations of the state and society must contain equality which is marked by the distribution of the power of diversity in the public domain. Here, the social arena in the life system of the state contains nuances of freedom, union, voluntary, and diversity of government in the form of sovereignty of indigenous peoples.

The Minangkabau community has local wisdom in resolving various customary disputes, even for a wider range of life issues long before Indonesia as a country was founded. The *Nagari* Customary Justice System itself is a translation of the *Limbago Adat* for the realization of the life philosophy of the Minangkabau community. Furthermore, the institutional structure of the *Nagari* Customary Court is a representation of the existence of the tribe in the *Nagari*, so that the cultural legitimacy possessed becomes a strong existence. Applying the *Nagari* Customary Justice system as law supremacy that is legal and recognized, especially in the state, in principle is a way to accommodate a more advanced society, emitting power from within in the form of rationality that will be able to guide the public towards the general good. In a sense, the *Nagari* Customary Justice system is an effort to build up the sovereignty of civil society, which is an autonomous, independent, egalitarian, and democratic society.

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