

Musyawarah Mufakat Indigenous Version of Minangkabau in Dispute Settlement Waqf Communal Land in West Sumatera

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Typical deliberations in Minangkabau have been patterned in their customary legal systems, both “Kotopiliang and Bodicianiago” customs. The implementation began with a meeting in the house of Gadang, in “Balairung suku”, followed by the new Traditional Density of the Nagari (KAN). The norms used are Customs of “Basandi Syarak and Syarak Basandi Kitabullah“(ABSSBK), “Syarak Mangato Adat Mamakai”. Settlement of adat disputes is usually related to Sako and Pusako, one of which is the ulayat land. Land Ulayat is owned by communal customary community groups, with the concept of "jua indak dimakan bali, gadai indak dimakan sendo" meaning it cannot be traded and also cannot be mortgaged except with strict conditions. In the National Law, Ulayat lands are regulated separately in agrarian reform as stated in Article 3 of the UUPA. Article 3 of the UUPA is one of the characteristics of the type of land rights with a communal not a collective concept. Conceptually, the recognition of customary rights is only limited to the recognition in the main provisions of the UUPA so that the implementation is carried out with local interpretation, this does not cause disputes but can stimulate conflicts of norms, concepts, values and interests. With regard to customary land in Minangkabau (now West Sumatra), for the benefit of Muslims, customary land rights regulations have changed and the relevant will never return to customary land, but instead become land owned by Muslims managed by an institution called waqf. Currently, development gives rise to disputes / conflicts over customary land waqf such as: the existence of endowments by oral “mamak kepala waris “, i.e. the nephew born post the regulation, refuses the endowment of the communal land; the number of waqf lands that have not been registered in the name of “nadzir”; waqf land that has not yet been prepared for a waqf pledge deed; a nephew refuses the existence of such customary land waqf; the price of land rises and the location of interest causes a dispute / conflict.

After conducting research it is found that the dispute / conflict is between positive law and Minangkabau customary law. Settlement of conflicts is carried out with a customary law system that is based on Islamic law, where technical implementation can be effected with a “Kotopiliang” pattern, in stages, and a custom pattern of the “Bodicaniago” with a horizontal pattern. Both use the customary ABSSBK system. It was found that customary land waqf disputes were not resolved in the formal court, the religious court, but resolved in the traditional court, the informal court, using the Minangkabau version of the traditional consensus agreement.

Key words: *Musyawahar Mufakat, Dispute settlement/resolution, waqf communal land.*

Introduction

The beautiful Minangkabau region is complemented by interesting cultures, especially concerning the customs of both Kotopiliang and Bodi Caniago. These rule is in harmony with Islamic law in the Basandi Syarak and Syandi Basandi Kitabullah (ABSSBK). Although not codified in a law, these rules are still sustainable in the life and life order of the Minangkabau materilinal community. This provision was affirmed in West Sumatra Regional Regulation (Perda Sumbar) Number 7 of 2018 concerning Nagari, successor to Perda Number 2 of 2017, on the Principles of the Nagari Government. In this regulation, the Nagari Adat Density (KAN) was established as an institution that functions to preserve adat and resolve sako and pusako disputes by means of deliberation by using customary law principles dedicated to Islamic law (ABSSBK). Pusako is a treasure in Minangkabau that is owned communally with a pattern of maternity kinship. One of these assets is communal land with the communal level of the clan, tribe and nagari. Customary land is then regulated in national law in Article 3 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, abbreviated as UUPA. The implementation of legal certainty on customary land through land registration in Indonesia has not been determined to date. The legal certainty of land rights in the UUPA must be registered providing proof of land rights in the form of a certificate, except for state land with controlling rights in the list without being given proof of land rights.

In the Minangkabau area (West Sumatra) communal land is one type of land that can be represented, even though communal land cannot be registered and does not have a title of customary rights. Meanwhile the UUPA strictly regulates land waqf (Article 49 paragraph 3 of the UUPA). The land waqf provisions are developed in a variety of rules including, 1. PP No. 28/1977 concerning the Representation of Ownership Rights; 2. PMDN No. 6/1977 concerning Registration of Ownership of Land Rights; 3. Religious Regulation No. 1/1978 concerning the Implementation of PP No. 28/1977; 4. Joint Instruction of the Minister of Religion & Minister



of Home Affairs No. 1/1978; 5. Regulation of the Director General of Islamic Community Guidance No. Kep / D / 75/1978; 6. Letter of the Head of BPN No. 630.1-2782 dated August 27, 1991 concerning the Implementation of Land Endowment Certificates; 7. Law No. 41 of 2004 concerning Endowments; 8. PP No. 42 of 2006 concerning the Implementation of Law No. 41 of 2004; 9. Joint Decree of the Minister of Religion and KABPN No. 422 of 2004 concerning Endowment Land Certification. In all of these regulations there are no provisions regarding waqf ulayat land. In Minangkabau wakaf ulayat land is implemented, because the Minangkabau community is Muslim. In practice, if there is a dispute, both internal and external, it is settled by custom which relies on Islamic law.

Daily disputes are often equated even though they are not the same. From a literature review it can be seen that among sociologists of law, more focus is on the term conflict, while among legal anthropologists there is a tendency towards the term dispute (Valerine et al., 1993). A dispute occurs when the party that has a complaint has increased its complaint into the public sphere which is intentionally carried out with a view to getting something desired (Gulliver in Valerine Kriekhof). There is no dispute, except for someone on his behalf, actively raising his complaint to the public arena, with a view to doing something about the desired claim. Nader and Todd and Culiver in Yulia Mirwati (Yulia, 2015) emphasized the difference between conflict and dispute, where conflict is a situation where both parties are aware of their dissatisfaction, while a dispute is a complaint from someone which actively takes them to the public's sphere with the intention of obtaining certain results. In the realm of law, it can be said that a dispute is a problem between two or more people where both of them dispute one particular object because of misunderstanding or different perceptions that lead to legal consequences for both (Bernhard, 2012).

Likewise, communal land disputes arise at the conceptual level with regard to values, norms, and interests, such as registration of ulayat land waqf, disputes between endowments and their heirs, nadzir and assets represented. In Minangkabau, the indigenous people use the ABSSBK order. The Waqf Institution was developed mainly for the construction of mosques, musalla, other places of worship, administrators of pesantren¹. The role of waqf in the Muslim world is developing well, especially in economic, social and cultural development. The elements that stand out from waqf are its role in financing various religious activities, health, social and cultural education for example in Egypt, Saudi Arabia, Turkey and several other countries. Continuity of the benefits of waqf is made possible by the promotion of productive waqf to sustain various social and religious activities.

¹ Uswatun Hasanah as quoted by Helza Npva Lta and Zahera Mega Utama, Productive Waqf Associated with Law Number 41 of 2004 Concerning Waqf in Al Awqaf Journal of Islamic Waqf and Economy Journal, Volume VII, Number 2 Indonesian Waqf Board, Jakarta, p.76



Indonesia is the fourth most populous country in the world², where waqf land is almost five times the area of Singapore. Data contained in the Waqf Information System Sub-Directorate of the Ministry of Religion shows that in 2012, the area of waqf land in Indonesia reached 3,492,045,373,754m². Such waqf land is spread over 420,003 locations throughout Indonesia³. In 2013 the number of waqf land in Indonesia rose to 4,142,464,287,906 M² or around 414,246,429 ha spread over 435,395 locations. In 2014 it increased again to 4,142,464,287.91 M² or around 414,246.43 ha spread across 435,395 locations. In 2015 it rose to 4,359,443,170 M² or around 435,944.32 ha spread over 436,768 locations⁴. The land area and waqf locations originating from West Sumatra were 452.72 hectares, spread in 3,897 locations http://siwak.kemenag.go.id/gp_jotal.php visited on 15-01-2017 at 2.00.wib.

Waqf land originating from West Sumatra has not been mapped, how much is originating from registered (certified) land rights, as well as from customary land and communal land (not certified), must be registered with the provisions of land registration in Indonesia (PP 24 of 1997 substitute PP 10 of 1961), while in the PP customary land is not included as one of the objects of land registration (Article 9 PP 24 of 1997). According to Law Number 41 of 2004 Concerning Waqf (UUW), in conjunction with Government Regulation Number 42 of 2006 Regarding the Implementation of UUW, no ulak land object was found. The LoGA is concerned only with property right, and not customary rights (Article 49 paragraph (3) LoGA), as well as PP 28 of 1977 and Inpres 1 of 1991 (KHI), In both of these provisions the land endowment must be registered with the registration conditions soil. In this case it is interesting to study deliberations and consensus is a model of settlement of communal land waqf in West Sumatra.

Research Methods

The research method used in this study is normative juridical or doctrinal law research. This research is doctrinal legal research, because it prioritizes secondary legal materials or those contained in libraries (Suratman, 2012). This research is descriptive / prescriptive in that it depicts / illustrates the communal land dispute and its settlement model in the Minangkabau / West Sumatra area. The main data used is secondary data which is data that is already available in the form of books and other documentation usually provided in a library, or is private property (Hilman, 1995). Material library law includes; legal materials related to legislation and policies besides other secondary legal materials such as textbooks, research results, papers, articles, journals and other documents relating to the object of carrying out research (Peter, 2007). Further, tertiary legal materials are also used, namely materials that provide instructions

² <http://www.indonesia-investments.com/id/budaya/penduduk/item67>, visited Monday 15-09-2019 at 12.53 WIB

³ <http://bimasislam.kemenag.go.id/information/news/35news/600-Luas-land-waqf-in-Indonesia:3492045373754-m2.html>, visited Monday 15-9-2019, at 13.05 WIB

⁴Data from the Director of Waqf Empowerment, Indonesian Waqf Board, Jakarta



as well as explanations for primary and secondary legal materials. These legal materials include dictionaries, encyclopaedias, legal magazines and so on (Nico, 2006).

As additional data, field data was collected, both from respondents and informants. Data collection tools in this research include a document study (Soerjono, 1986) that supports field data conducted in-depth interviews with respondents determined by purposive sampling. The respondents were determined as the Chairperson of the central and regional Indonesian waqf Board, the Supreme Court and the Chair of the Religious Court in West Sumatra. Nadzir, PPAIW. To further validate the data, observation was also carried out. Data analysis was qualitative and interpreted as a process of breaking down systematically and consistently certain symptoms (Soerjono, 1986). The intended analysis is the analysis of primary, secondary and tertiary legal materials, as well as supporting data from the field. Considering that this research is normative (Johnny Ibrahim, 2008)⁵, the analysis of the legal material is carried out with normative analysis, especially relating to disputes over ulayat land and the qualitative (Sunaryati, 1994)⁶ resolution model is analyzed based on legislation and legal theories related to endowments.

Research Results and Discussion

Regulation of ulayat land waqf in the legal and regulatory system that applies in Indonesia including West Sumatra

Understanding of waqf according to language comes from waqf, which means radiah (returned), al-tahbis (restrained), al-habs (captive) and al-man'u (prevent) (Sabiq, 1994), also called al-habs (al-ahbas, plural). In language, al-habs means al-sijn (prison), silence, prevention, obstacles, obstacles, detention, and security. Combining the word ahbasa (al-habs) with al-mal (treasure) means endowment (ahbasa al-mal) (Sabiq, 1994). From the above formulation, it appears that in Islamic fiqh, waqf can actually include various objects, although various narrations / hadiths detail the problem of this waqf is about land, but various scholars understand that even non-wakaf may be provided as long as the object is not destroyed / finished immediately when the benefits are taken

Waqf institutions have existed since the entry of Islam into Indonesia, but the implementation is individually (not systematically) still not yet registered and as such cannot be calculated on width and number of locations and further allotment is only for worship. With the birth of the

⁵ Normative analysis is the core of legal analysis, where the task of legal analysis is to analyze the notion of law, the legal principles of the legal method, the legal system and various juridical concepts. Thus in this normative analysis the starting point cannot be separated from juridical provisions based on the pure legal concept of Hans Kelsen, see further in the book.

⁶ The concept of qualitative analysis is to use materials that are not merely normative but are also related to legal concepts, philosophy and other fields which are outside the legal norms, see further in the book.

new BAL, waqf was officially regulated in the Indonesian legal system. This can be seen in Article 49 of BAL paragraph (3) which confirms that ownership rights to land can be represented and further provisions regulated in Government Regulation No. 28/1997 concerning Self-Ownership of Ownership. To guarantee legal certainty, waqf must be registered through the provisions of land registration and subsequently the land parcels are also regulated in Presidential Instruction Number 1 of 1991 concerning Compilation of Islamic Law (KHI) with registration also based on the provisions of land registration (now regulated in PP Number 24 of 1997). In the provisions of land registration of customary rights do not include the object of land registration.

Further, in Law Number 41 of 2004 concerning Waqf (UUW), which is complemented by PP 42 of 2006 concerning the implementation of UUW, waqf objects are not only property rights and customary rights are also not included as waqf objects. (Article 16 paragraph (2) UUW. In UUW, it is recognized that the distribution of movable and immovable objects is regulated in Book II of the Civil Code (Civil Code). Article 499 the Civil Code states that goods are each object and each right that can be deemed objects of property rights Distribution of goods / objects and are:

1. goods that are bodied, and there are goods that are not bodied (Article 503 of the Civil Code)
2. movable objects and objects that are not movable (Article 504 of the Civil Code);

In UUW it is apparent that waqf objects are also movable and immovable objects, but since the issuance of the UUPA, book II of the Civil Code (about objects) has been revoked and as long as it concerns the earth whose surface is called land and other agrarian conditions, the UUPA does not recognize the differentiation of movable and immovable objects. Rather there is only recognition of land rights and other rights In Article 32 of the UUW which states that waqf must be registered, where PPAIW on Nazhir's behalf registers property endowment to the competent authority no later than 7 (seven) working days after the endowment agreement is signed. The agency referred to is the National Land Agency (BPN) and although in the Waqf PP it is not explicitly seen, the registration of waqf in UUW can be developed for a certain period in accordance with its interests. In Islamic law the concept of waqf is also enduring. Similarly in the UUPA, PP 28 of 1977, Inpres 1 of 1991 endowments of ulayat land in Minangkabau remain in place for ever.

Ulayat land waqf dispute in West Sumatra

Disputes are universal legal phenomena that can occur anywhere and at any time because they are not bound by time and space. As a legal phenomenon, every dispute requires an act of resolution and there is no dispute without a settlement as in the dispute over communal land waqf that occurred in West Sumatra. Customary land rights are recognized in Article 3 of the BAL but they are not included as an object of land registration, nor is customary land waqf not

included as a waqf object and object of land registration. This is one of the causes of disputes over ulayat land as a whole and more detailed causes are:

a. Disputes concern concepts, values, norms and interests

From the various provisions concerning land endowments in Indonesia, these only regulate land endowments "individual rights" (Article 16 paragraph (1) UUPA, PP Number 40 of 1996, and UUW) without any single provision governing endowments originating from ulayat land (rights communal). However, in reality, especially in West Sumatra, land waqf is dominated by communal land waqf. Tanah Ulayat in West Sumatra is classified into three levels⁷: nagari, tribe and clan. Ulayat Land people who are often used as waqf objects. Clan Ulayat is in the form of heirlooms owned by one ethnic group, in a straight down line according to the mother line. With regard to conflicts arising in connection with the registration of ulayat land waqf, in the UUPA, UUW, and its organic provisions, customary land is not an object of waqf and rather is an object of land registration. At first the waqf was only concerned with ownership rights (Article 49 UUPA jo PP 28 of 1977, KHI), then developed with all types of land rights denied by the rights of flats, registered or unregistered land, (Article 16 paragraph (2) UUW

Conceptually, ulayat land is not registered, if there is force to register waqf ulayat land with the applicable land registration provisions, it is clearly contrary to the concepts, values and norms (constituting a weight or quality that is considered very valuable) contained in the Minangkabau indigenous people ABSSBK. This value is used to direct, control, and determine behavior, because the value is used as a standard of behaviour <http://coretanseadanya.blogspot.co.id/2012/09/pengahaman-nilai-moral-dan-norma-dalam.html>. When seen in the concept of Islamic law the value of waqf is worship on the basis of helping fellow Muslims by providing benefits from their belongings for the development of Muslim life, because it is already a religious concept. If there is a religious value, communal land in the form of ulayat is represented for the construction of places of worship, orphanages and nursing homes etc in the religious context.

In reality the ulayat land of the people is endowed, even without the deed of the endowment pledge, the endowment can be verbally and carried out by the mamak head of the heirs / head of the people after obtaining approval from all members of the clan. If it is registered it must be determined by the separate land registration that it cannot enforce the incompatible legal provisions. Registration must be in accordance with the concept and values of such customary rights. Contrary to the norm seen in the emphasis on positive legal norms written on the norms that grow in indigenous and tribal peoples, norms can be interpreted as rules, guidelines, benchmarks or tools to measure certain actions. With norms people can judge the good or bad of an action <http://yettihidayah.blogspot.co.id/2011/11/perb>. Norms contain signs that describe

⁷ Yulia Mirwati, locit



certain sizes, which contain true / false values. There are five applicable norms in Indonesian society: (1) religious norms, (2) moral norms, (3) politeness norms, (4) customary norms, and (5) legal norms, in addition to other norms. The legal norms concerning waqf ulayat land found in the Minangkabau / West Sumatra community include Islamic legal norms and customary law norms. Customary land waqf is not supported by existing legal provisions so that legal certainty regarding customary land waqf cannot be realized.

Other causes of wakaf disputes including wakaf ulayat land disputes are the creation of a paradigm in the community that endowments are always fixed assets which are always intended for worship and for religious social activities. Therefore, many waqf lands are not maintained, are taken away by the community or transferred to third parties (Herman, 2007). Sometimes these conditions are exacerbated by the state of narrow waqf land which is only sufficient to be used for religious purposes and as a result, is not taken care of more productively. Moreover, the value and price of land can soar because of its' located in a strategic position. Alternately in the depletion of religious awareness of waqf, situations occur where all / most property is relinquished and descendants lose their source of sustenance and became displaced (Satria, 2008)

b. Lack of the role of Nadzir

Nazhir was a less creative regulation of the land that did not ensure productive management, the benefits were not improved and even maintenance had to be sought by donations from the community (Uswatun, 1997). Uuw it is possible to implement within a certain time frame, because the value of land becomes more expensive, and the wakif feels that loss if not productive which can trigger disputes. In the implementation of waqf, Nadzir's role is very important, because Nadzir is the party considered to be most responsible for the use of the waqf assets entrusted, both in terms of maintenance, management, or development. Nazir's role in the context of empowering waqf is not only mobilizing waqf property and directly spending it or using it as alms, but strives to turn these waqf assets into assets / investments, improve management of assets more productively in order to utilize the results for various interests and benefit / welfare of the surrounding community⁸.

Nazhir empowerment goes hand in hand with the endowment empowerment effort itself. Waqf will be helpless when nazhirnya is helpless. Based on interviews with the Directorate of Waqf Empowerment, information was obtained about the initial conditions of Nazir in general re managing waqf in a traditional or unprofessional pattern and it was determined that this is the cause of lack of waqf management productivity. Nazhir traditions in Indonesia are more focused on physical things such as providing worship infrastructure⁹. The skills of Indonesian

⁸Interview with Mr. Ahmad Muhajir Al-qadri Kasubdit Counseling and Coordination of Waqf Ministry of Religion, August 4, 2016

⁹ Ibid



Nazirs in general are spent on waqf property for the social nature and not manage and produce economic value.

Sunnah Rasulallah SAW was instituted in order to hold the principal and deliver the results have not been implemented well by the Nazirs¹⁰. Article 53 paragraph (1) PP Uuw stipulates that Nazhir waqf is entitled to receive guidance from the Minister and BWI, paragraph (2) states that: "Nazir guidance referred to in paragraph (1) includes: (a) preparation of facilities and infrastructure to support Nazhir waqf operations both individuals, organizations and legal entities; (b) drafting regulations, providing motivation, providing facilities, coordinating, empowering and developing waqf property; (c) providing Wakaf certification process facilities; (d) preparation and procurement of AIW blanks; (e) preparation of lighting instructors in the regions to conduct guidance and development of endowments to Nazhir in accordance with their scope; and (f) providing facilities for the entry of endowment funds from within and outside the country in the development and empowerment of endowments.

c. There are still much Waqf Land that is not yet certified

The large number of waqf land that has not been certified causes a large opportunity for disputes to occur in the community, especially for wakaf land in urban areas with increasingly elevated prices. The increased price of land and increased community need for land has caused greater waqf land claims in the context of property endowed by parents where heirs sue on the grounds that there has never been a representation by their parents or by their alliance or by mamak head of inheritance / head of their people (traditional leader). Based on data in the Ministry of Religion in 2014, uncertified waqf land was 145,699 and in 2015 uncertified waqf land was 148,447. Waqf property has not been registered appropriately and this has triggered the emergence of a customary land waqf dispute.

Model of Land Dispute Resolution in West Sumatra

In PP No. 28 of 1977 on land alienation, it was stated that the settlement of the dispute over the waqf was made through a religious court. This is seen in Article 12. The PP, which states that the resolution of the dispute as a whole involving the question of land tenants, is transmitted through the local Religious Court in accordance with the provisions of the applicable laws. Later in the Uuw it is stated that the settlement of the waqf dispute either as the moving object or the moving object is resolved by deliberation to reach a resolution (Article 62 paragraph (1) of the Uuw). If the dispute settlement as referred to in paragraph (1) does not work, the dispute can be resolved through mediation, arbitration or litigation. In Article 62 paragraph (2), the Uuw clarified that mediation is a dispute resolution with the assistance of a third party (mediator) agreed to by the parties in dispute. It can be brought to the Syariah

¹⁰ Interview with Nani Almuin Research and Development Division of the Indonesian Waqf Agency on 4 August 2019



arbitration body and in the event that the Shariah arbitration body is unable to resolve the dispute, the dispute can be brought to a religious court and / or a Syariah court.

Although it is stated that the solution to a dispute is through deliberation to reach a compromise, it does not explain how deliberation can achieve that agreement and whether voting also includes the principle of deliberation to reach a compromise. In the implementation of the land conflict originating from land tenure settlement, the dispute is mediated under the customary legal system. For the Minangkabau / West Sumatra indigenous peoples, the ABSSBK system was used both through Bodi Caniago and Koto Piliang. In Minangkabau the legal system used is called "Lareh" or is also called justification. Larang in Minangkabau is called Lareh Nan Duo <http://chaniagocommunity.blogspot.co.id/2005/09/lareh-koto-piliang-dan-body-caniagp.html> ie 1. Larod Bodi and Caniago, 2. Larger Koto and Piliang, in the so-called "Bani Caniago Adjustment and Piliang Koto Adjustment".

In both cases the legal system used is democracy and dispute resolution with a democratic pattern is called "muffled deliberation". In both cases, while a different procedure, the legal concept of settlement remains deliberative and negotiable. In the Bodi Caniago adaptation of the system of deliberation and negotiation with the procedure of the samo marakah high stakes (horizontal democratic system) while in Koto Piliang used the procedure of "open-minded deliberation" with the basketball ruling to come down (resolved in several stages). Based on extensive research, both are used, although some mix the caniago body system with the kotopiliang, but the settlement in the court is almost non-existent as found from an analysis of data from the last 5 years. Settlement of disputes through deliberation and negotiation, involving a customary leader, from the lowest of the leaders of the group (communal core) called the heirs of the heirs, then only to the greater communal (the same tribe) is called "ka ampek tribe". Further this involves the customs of the country (KAN) and if necessary involve the Minangkabau Native Institution (LKAAM) which includes elements of mamak mamik, pious scholar and clever cunning also known as "rope tigo sapilin, wait tiger patio". Implementation of deliberation can be effected in the pawn house or custom hall in accordance with the conditions used. In general a dispute over land tenure is settled in this pattern

According to PP 28 of 1977 jo UUW and PPUUW, dispute resolution through religious court litigation

This occurs after the Religious Courts became the Judicial Power Apparatus as mentioned in Law Number 14 of 1970 concerning the Principles of Judicial Power, and in 1989 when Law No. 7 of 1989 concerning Religious Courts was enacted (Busthanul, 1996). The religious court has the duty and authority to examine, decide upon and settle cases at the first level among people who are Muslims and others concerning waqf. The Supreme Court in carrying out the task of judicial technical guidance of the Religious Courts expresses a realization of some



weaknesses, and even confusion. The confusion is referred to as a result of differences of opinion of the scholars on an issue. To overcome this difference, it is necessary to establish a law book that collects all applicable laws that apply to the Religious Courts environment which can be used as guidelines by judges in carrying out their duties, so as to ensure legal unity and certainty (Busthanul, 1996).

This is where an Islamic Law Compilation (KIH) is needed in the areas of the authority of the Religious Courts that will clarify the application of Islamic law fiqh regulations (Abdul et al., 1996). In the KHI it is also expressly stated that the settlement of disputes over waqf objects is carried out by a settlement of deliberations conducted jointly with by the KUA in the District, the Ulema Council and the Religious Courts which occupy it. This can be seen in Article 226 KHI which confirms that the completion of Nadzir's duties and responsibilities was carried out jointly by the Head of the District Religious Affairs Office, the Ulema Council of Criticism.

This deliberation must contain the following principles: no party feels defeated and no party feels victorious (win-win solution principle); decisions are based on sincerity, so there is no longer any sense of resentment between people; the decision must not be in conflict with the Shari'a (religion) and customs; the decision is impartial, not biased; decisions must have permanent legal force and may not be changed by anyone, except by further deliberation; decisions must be accompanied by threats of punishment for those who do not obey. Local wisdom values known as Minangkabau cultural values can be non-material objects that are difficult to measure with material benchmarks. Indeed, the cultural values of indigenous and tribal peoples can instinctively and intuitively guide everyone instinctively and if accurate to accepted virtue, can improve the life quality if practiced and enforced in societal and state life.

Conclusions

In conclusions this research found that:

1. The endowment of ulak land is not regulated in the LoGA and other Implementing provisions, and that in the Minangkabau / West Sumatra customary law community the customary land use is customary. The customary land of communal land has not been registered appropriately and Ulak Tanah Ulayat cannot be registered through the provisions of land registration PP 24 of 1997.
2. Factors triggering the occurrence of customary land waqf disputes can be identified in the form of concepts, values and norms and interests (conceptual, values, norms, interests / needs) and also can occur in the context of relationships, information and structures (power structures). This could also be due to the role of non-productive nadzir, irregular administration, higher land prices and diminishing religious sense, etc.
3. The strategy of resolving waqf land disputes originating from communal land as implemented in West Sumatra is by consensus pattern according to the harmony used in



the nagari, both the harmony of Bodi Caniago and Koto Piliang, and not through mediation, arbitration or court process. The fact is that no endowment dispute over ulayat land is resolved through litigation institutions, but rather through Minangkabau adat institutions with the ABSSBK legal system, and in the end, the decision is not about loss or win, there is no revenge between the parties but rather pursuit of peace for all parties. In Minangkabau, it is noted that in the Indigenous Fatwa, Bulek is grouped and blamed on Buliah which means that it is well received by all parties.



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