

CHANGING ONE IS CHANGING ALL: DYNAMICS IN THE ADAT-ISLAM-STATE TRIANGLE

Franz and Keebet von Benda-Beckmann

Introduction

In 2000, the West Sumatran provincial board of the Association of Minangkabau Village Adat Councils (LKAAM, also called Association of Adat Councils) issued a *'fatwa'* concerning a land right struggle between the village of Lubuk Kilalang and the Padang Cement Factory (LKAAM 2000; see also: F. and K. von Benda-Beckmann 2001, n.d; Sakai 2003; Afrizal 2005). The *fatwa* stated that according to Minangkabau *adat* (traditional, customary) law, resources with the status of village or clan commons could not be permanently alienated. Land and coral stone used for the production of cement, the *fatwa* declared, had been, were then and always would be part of the commons (*ulayat*) of the village, the *nagari*. The document transferring land to the factory in 1972 was therefore void. This issuing of a *fatwa* by an *adat* organisation in a matter of land law is remarkable for two reasons. It was issued by an organisation that had long been regarded as a puppet of the Suharto regime, but now asserted the superiority of *adat* law over government law. And secondly, the Islamic legal term *fatwa* was used by an *adat* organisation for a legal issue that was clearly defined as *adat*. Minangkabau *adat* is famous for its matrilineal principles structuring descent groups, property and inheritance as well as political leadership. Islamic law (Ind. *sharia*, Min.: *syarak*) provides a very different model of social, economic and political organisation and male authority, and the struggles between the two systems and their protagonists have become proverbial.

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The '*fatwa adat*' exemplifies some of the peculiarities in the triangular relationship between *adat*, Islam and the state in West Sumatra. This relationship rests on two important *a priori*s. The first is that the Minangkabau are part of the Indonesian state, and that, therefore, all struggles and negotiations over the relative position of each of these normative orders take place within the overall framework of the Indonesian Republic and its constitution. *Adat*, Islam and state together are considered to be the "three interwoven threads" (Min.: *tali tigo sapilin*) of legitimate authority. The other *a priori* is the inseparability of belief in Islam and adherence to Minangkabau *adat*. This is expressed as "*adat* rests on the *sharia*, the *sharia* rests on the Koran" (*adat basandi syarak, syarak basandi kitabullah*, abbreviated ABSSBK). However, while these basic principles of the relations between *adat*, Islam and state are old, the abstract contradictions between the systems have not necessarily and at all times led to corresponding legal and political struggles, and as Abdullah (1966: 23) has shown, Minangkabau have found different ways to deal with the contradictions. Periods of peaceful accommodation have alternated with periods of intense contestation around a number of 'hot issues'. Before colonisation, this was the issue of *adat* matrilineal social and political relations versus Islam. After colonisation, controversies over inheritance were the hottest issue in the *adat*-Islam relation, while village government and control over village resources dominated the *adat*-state relationship.

The period starting after the demise of the Suharto regime in 1998, with its political freedom and decentralisation policy, is a period of renewed contestation and negotiation of these relationships.¹ In West Sumatra, one of the major changes that occurred in connection with decentralisation was the reorganisation of village government. The Indonesia-wide uniform village model of *desa*, introduced in 1983, was replaced by the Minangkabau-specific *nagari* as the lowest unit of local government. The *nagari* was the village structure that had existed prior to the 1983 change, with roots in pre-colonial political organisation. 'Going back to the *nagari*' was talked of as 'going back to *adat*'. Many actors interpreted this also as a move to extend the validity of *adat* law and leadership in the sphere of rights to natural resources. The *adat* revival in turn led to new dynamics within Islamic circles which promoted the idea that truly going back to the *nagari* was only

¹ On decentralisation in Indonesia in general, see: Holtzappel et al. 2002; Sakai 2002; Aspinall and Fealy 2003; Kingsbury and Aveling 2003; Schulte Nordholt and Asnan 2003.

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possible in conjunction with ‘a return to the *surau*’.² Thus a new hotspot rapidly developed, in which the meaning of the relationships between the different legal systems as well as the moral values they represented were reconstituted.

With its triangular constellation, West Sumatra is particularly well suited to explore the complexities and dynamics of a co-existence of legal orders. The example is also of a more general theoretical and methodological relevance and may help us to bridge the social and theoretical space between small-scale case studies and normative or empirical generalisation.³ In the introduction to this volume, we have discussed a number of important analytical and methodological issues in the study of changing plural legal constellations. Minangkabau, of course, presents only one variation in the many dimensions in which constellations of legal pluralism may vary – one which happens to be a particularly rich one. But it helps us to discover some important dimensions of such variation. We shall focus specifically on the different kinds of social processes in which the relationships between *adat*, Islam and state rules are maintained and changed throughout time. This includes processes in which these relationships become manifest as relations between distinct legal systems as well as in various hybrid legal forms. It also includes processes in which inter-system relations and the superiority of one over the other(s) as such are problematised, and processes in which elements of different legal orders are used to validate and settle concrete problems. We shall focus on the different arenas in which these processes occur, on how negotiating relationships in one arena may affect the relationships in others, and on how change in one domain of social organisation may lead to changes in others. Our research suggests that legal systems – and therefore constellations of legal pluralism – may have characteristic ways in which changes in one domain of social organisation, such as village government, affect other domains, such as resource use or inheritance. We argue that this is facilitated by a number of factors, such as the systemic character of legal systems and inter-system relationships, conditions

² *Surau* originally were men’s houses where unmarried and widowed men lived. With Islamisation, they also became prayer houses where religious and *adat* instruction was given.

³ We have discussed some of these issues in the introduction to this volume, with reference to Moore’s notions of “events of articulation” (Moore 1977) and “diagnostic events” (Moore 1993) and the macro-micro discussion between Knorr-Cetina (1988) and Collins (1992). See also: F. and K. von Benda-Beckmann 1991; F. von Benda-Beckmann 2001.

of little social and functional differentiation and institutionalisation, and dense multiplex and multifunctional relationships and institutions. Our paper further suggests that the triadic constellation in West Sumatra is so prominent that it always lurks in the background of issues involving primarily a dyadic relationship, be it *adat*-Islam, *adat*-state, or Islam-state.

In order to understand the interdependent changes of the relations between and significance of *adat*, Islam and state law in West Sumatra, we will first present a brief overview of the major fields of tension, accommodation and struggle between the three major legal systems. We will then focus on the domains of social life in which legal pluralism is particularly salient and is subject to negotiation and struggle, namely the reorganisation of village government, control over village resources, and property and inheritance. While we will sketch the most important historical developments in each of these domains set in relation to each other, we shall address in particular the changes after the fall of the Suharto regime, which we have been studying since 1999.⁴ The analysis of the linking processes between the three main bodies of law will then allow us to draw some conclusions about the current changes in the plural legal system.

Minangkabau Legal Pluralism

When Islam and the *sharia* came to West Sumatra in the 16th century, it encountered a local political and legal system that was rather different from the *sharia*'s blueprint for social, economic and political relations. In the rather autonomous Minangkabau villages, the *nagari*, the principle of matrilineal descent was dominant in structuring the social, economic and political organisation. The *adat* of matrilineal heritage (*adat pusako*) pervaded and structured the most important kinship relations, group affiliation in descent groups, access to property

⁴ Our research on decentralisation since 1999 has been carried out with the assistance of Alfian Miko, Aidinil Zetra and Indraddin of SCDev and in co-operation with Andalas University in Padang. Research on the use of civil and religious courts between 1980 and 2004 was carried out in collaboration with the Centre for Alternative Dispute Management of Andalas University. We gratefully acknowledge the help and stimulation of Alfian Miko, Erwin, Sjahmunir, Sjofojan Thalib, Takdir Rahmadi and Tasman and the late Aziz Saleh and Narullah Datuek Parpatiah Nan Tuo. See F. and K. von Benda-Beckmann 2001, n.d.

and political leadership. Matrilineal descent groups headed by a titled lineage head (*panghulu*) formed the core units of the economic and political constitution of the villages. The *nagari* were governed by the heads of the matrilineages who (supposedly) had founded the *nagari* in the Village Adat Council (*Kerapatan Adat Nagari*) or council of lineage heads.⁵ The *adat* council (or sometimes the matriclans) controlled the village commons (*ulayat nagari*), and especially access to and use of village forest and pastures. The permanently cultivated wet rice fields and gardens were held as inherited lineage property (*pusako*). This provided the basis for the social continuity of present and future generations of lineage members and could therefore not be permanently alienated. Lineage members had considerable freedom over their self-acquired property (*pancaharian*) as long as such dealings involved normal economic exchanges. But they could not permanently alienate it to non-lineage members, because it was destined to become inherited property of their close matrilineal relatives. Also, village commons brought under permanent cultivation became self-acquired, and after one's death, inherited property. Because self-acquired property was inherited lineage property in chrysalis state (Willinck 1909), and village commons could become self-acquired property and later inherited lineage property, the three categories of property and inheritance were closely interconnected.

Initially Islam was mainly accepted as a new religion, gradually merging with and suppressing *adat* conceptions of the supernatural and sacred world. In secular matters, *adat* largely remained intact. Religious offices were adapted into the *adat* system of matrilineal descent. Probably starting in pre-colonial times, Arabic words such as *hibah*, *hak*, *milik*, *wasiyat*, and *wilayah* (Ind.: *ulayat*), which are also Islamic legal concepts, were incorporated into the Minangkabau Malay language and into the conceptual world of *adat*. These Islamic legal institutions were 'adatified' and mainly came to denote *adat* institutions. The *warith*, denoting the Koranic heirs, in *adat* became the *warih* (*waris*), the matrilineal heirs. *Hibah* became the concept for donations in *adat*, quite different from its meaning in Islamic law.⁶ These concepts were later also incorporated into the state legal systems, where they again obtained a new interpretation.

⁵ For more comprehensive accounts of Minangkabau social organisation, see: F. von Benda-Beckmann 1979; Kato 1982; K. von Benda-Beckmann 1984; Kahn 1993.

⁶ On the relationship between Islam and *adat* in West Sumatra, see: Prins 1954; Abdullah 1966; F. and K. von Benda-Beckmann 1988.

In the beginning of the 19th century, an open conflict broke out between an orthodox Islamic movement, the so-called Padri, and the traditionalist *adat* majorities in Minangkabau villages. To the Padri, the system of inherited lineage property was a heathen practice and therefore forbidden. In the ensuing war, some *adat* leaders called the Dutch, who had only had a trading post on the coast, for help. The Dutch beat the Padri forces and incorporated Minangkabau into their colonial empire. Ever since, changes in legal pluralism and the significance of *adat*, Islam and state law have to be seen in a triangular constellation.

As far as village organisation was concerned, the role of Islam remained modest. The Dutch built their system of indirect rule on the *adat* system and supported *adat* leadership and law against Islam, which they regarded as a political threat. They made the *nagari* their lowest unit of administration, but modified *adat* leadership structure to suit their ideas. This led to a hybrid neo-traditional structure with characteristics of both *adat* and state regulation, with a village head (unknown in pre-colonial *adat*) and village councils that comprised some but not all lineage leaders who according to *adat* constituted *nagari* government. But village government “according to *adat*” by the Village Adat Council consisting of all titled lineage heads continued to exist along with the leadership structure organised by the colonial administration. With a few exceptions, this dualism of neo-traditional and *adapt*-based village political organisation has remained until the present, although both have undergone significant changes.

A variety of lines of conflict have developed for the major property categories. Control and exploitation rights over village commons became a major problem between villages and *adat* and the colonial state, when the Dutch economic policy shifted to the establishment of capitalist economic enterprises and a systematic exploitation of natural resources. With the ‘West Sumatran Domain Declaration’ of 1874, the colonial government assumed legal control and disposition rights over all ‘waste’ lands, basically the village commons. Ever since, the rights to such lands have remained a bone of contention. (See: Van Vollenhoven 1919; Logemann and Ter Haar 1927; F. and K. von Benda-Beckmann n.d.) Islam did not play any role in these struggles over village commons. Realising that it was virtually impossible to change the system of matrilineal lineage property and its matrilineal rules of access and inheritance,⁷ its main point of tension became the

⁷ Religious scholars reinterpreted *pusako* in terms of Islamic law, translating it into a concept of their own legal universe. For them lineage property actually was

father's authority in kinship relations as against the mother's brother's, and his autonomy in property affairs. The Dutch, and later the Indonesian state, did not directly replace the substantive rules of inheritance of self-acquired goods. Their main objective was to shape the lineage property complex according to their economic policies. Especially since the 1960s, the Indonesian government has regulated agrarian law and promoted the conversion of *adat* land rights into state law categories largely modelled after European law and the registration of, ideally, individual titles to land.

Despite the fact that processes of hybridisation of legal concepts occurred on a relatively grand scale, there was a general and persisting agreement that *adat*, Islam and state law remain distinct systems.

Going Back to the *nagari* – Going Back to the *surau*

When we visited Canduang Koto Laweh in 1999, the village where we had done research in the mid 1970s, the village *adat* hall was all but completely dilapidated. The roof was leaking and the white boards with the village statistics, once the pride of the village administration, were in a sorry state. Only one room was still usable and it was here that the Village Adat Council handled conflicts about land, crowded around a small table with a few chairs. A toppled over bench was dusted and put up for us by a member of the Council. He looked pensively at the ceiling and remarked that times really had changed. In the 1970s the building had been used by both the village government and the Village Adat Council, and there had been frequent meetings. But after the village had been split into six *desa* the Village Adat Council had almost entirely stopped its activities and, like elsewhere in Minangkabau, the *adat* hall had fallen into disarray. From the 1970s onwards, the central government had relegated *adat* more and more to the realm of folklore – especially in the field of public administration – the introduction of the *desa* system being the apex of this development. With the return to the *nagari*, many villages have restored their *nagari adat* halls, often financially supported by migrants and by the government. The many beautifully restored richly carved *adat* halls stand for the new importance of *adat*. In Canduang Koto Laweh the old site of the *adat* hall reflects the unity of *adat*, Islam and the state. The *adat* hall and its

harta musabalah, a kind of property in the dead hand, *waqf*. The concept seems to be related to *musha*, undivided share. See Naim 1968.

prayer house have been restored. The school building across the courtyard, no longer needed because of demographic changes, is now the office of the mayor and the *nagari* government.

Back to the nagari

In 1983, the *nagari*, the traditional Minangkabau polities which later were transformed into local government units, with their dualistic structure of neo-traditional characteristics of *adat* and state regulation and ‘real’ *adat* institutions, were divided into several *desa*, in which *adat* leaders had no place. Provincial Regulation 13 of 1983, however, acknowledged the *nagari* as an ‘*adat* law community’ and the Village Adat Council as the institution representing this community. In contrast to their predecessors, these new Village Adat Councils were heavily regulated and rather bureaucratic. Moreover, its officials were pressured to join the ruling state party Golkar. These developments weakened the significance of *adat* and *adat* leadership, which had become almost obsolete by the end of the Suharto era. Most offices of lineage heads were vacant and only some higher administrative officers in town or in Jakarta adorned their position with a traditional office.

In 1998, the governor took the lead with the ‘return to the *nagari*’ policy in the hope of gaining support among the rural population in the first free governor elections. Discontent with the *desa* village administration had been rampant, because it was regarded as Javanese in its autocratic government style so different from the *adat* ideas of consensual decision making. The *adat* structure no longer matched the new village community and territory. Given the principle of uxorilocal post-marriage residence, some lineage heads did not live in the same *desa* as their matrilineal kin for whom they carried *adat* responsibility, while having no *adat* authority in the *desa* they governed. Property relations to the lineages’ inherited property, mainly irrigated rice land, were also cross-cut by the new administrative boundaries between *desa*. The *desa*, it was generally said, had destroyed *adat*. Despite this, the idea of going back to the *nagari* initially met with much scepticism. A study initiated by the governor and our interviews in 1999 revealed very ambivalent feelings. Most of the ordinary village population and especially the youth, who had lived their entire life under the *desa* regime, appreciated the greater proximity of the *desa* offices. Many viewed lineage heads as conservative and prone to cheat their lineage members with secret land sales. They did not expect great improvements from a *nagari* structure. Naturally, *desa*

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heads were the most outspoken opponents of such a change for they would lose their positions. Another objection was that there were hardly any active lineage heads left and those who were had no knowledge of *adat*.

In 1999 and early 2000, after numerous consultative meetings with NGOs, Islamic organizations, political parties and migrant groups outside the region, the tide turned. After the political decision to draft a new provincial regulation for a return to the *nagari*, on the whole the majority of the population had embraced the idea of a *nagari* structure, though certainly not everybody agreed and the youth's enthusiasm was lukewarm at best. Many people, including *desa* heads who had been still critical the year before, had come to admit that the *desa* system had its drawbacks, too, and that there might be virtues in a return to a *nagari* structure. Even most towns were considering going back to a *nagari* structure. The populist top-down move was actively taken up and quickly acquired its own momentum. The debate the year before having been whether or not to reintroduce a *nagari* structure, it then shifted to the question of what kind of *nagari* was to be introduced.

Back to the surau

The *adat* revival took many Islamic protagonists by surprise. The public role of religion as the main idiom to criticise the government was now challenged by *adat*. In order not to lose all initiative in the public domain to the *adat* lobby, the 'return to the *nagari*' was matched with a debate about 'going back to the *surau*'. This discourse initially met with some ridicule. But it soon was seen as an excellent chance to piggyback on the *adat* revival and at the same time to offer a counterpoint to the powerful 'going back to the *nagari*' discourse. In numerous public seminars the meaning of ABSSBK was discussed. In the past the relationship had been considered symmetrical: '*adat* rests on *syarak*, *syarak* rests on *adat*'. (See: Taufik Abdullah 1966; F. von Benda-Beckmann 1979.) ABSSBK, *adat* and Islam and the return to the *surau* were pictured on posters displaying each one Minangkabau couple in proper Islamic dress, one in *adat* dress, one in military and one in civil service uniforms, against the background of a mosque and an *adat* house. The text runs: "Let us make the movement 'back to the *surau*' a success. Implement the philosophy of ABSSBK. Let us start from the *surau*." Many Minangkabau are rather self-critical or even cynical towards the flowery but virtually empty rhetoric of *adat* virtues, ABSSBK and the return to *nagari* and *surau*. But some also see it as a possibility to creatively envision the future

(Abdullah 2003), and some point to its significance in conflict prevention and resolution (Abdullah Dato' Firdaus 2003: 65). Thus, while the restructuring of village government primarily changed the relationship between *adat* and state law, this evoked a reaction from the part of Islamic protagonists, who, with the return to the *surau* debate, attempted to restore the balance between *adat* and Islam in relation to the state. However, they faced a problem because Islamic law could not easily provide an acceptable alternative to *adat* for the institutional setup of village government, nor for greater village control over resources. To match the high political visibility *adat* had achieved in the issue of village resources and village government, they focused on moral issues, the defence of Minangkabau values (mainly religious but given ABSSBK also of *adat*) against the dangers of globalisation and on vices and 'societal illnesses' such as drug abuse, gambling, prostitution and HIV/AIDS, porn videos, and indecent clothing of women.

Arenas

The relationship between the legal systems was also renegotiated more concretely in discussions about the precise form of the *nagari* which took place in the villages and many different arenas. Apart from provincial and district politicians and administrative staff involved in legislation, the media and university staff and NGOs, international donor agencies and Minangkabau migrant organisations accompanied the process with criticism, advice and funding. In endless series of seminars, consultations and training sessions, local leaders were acquainted (*sosialisasi*) with the new principles of village government. These sessions brought together village leaders, civil servants involved in legislation and implementation of the legal structure, and university staff who also were central figures in NGOs and acted as facilitators in the training seminars. In these seminars, an initially top-down process turned into something far more complex. The meetings also served as important horizontal channels of communication among village leaders from different regions within West Sumatra. *Adat* proverbs and ABSSBK were combined in happy conjunction with the international buzz words of good governance, social capital, transparency, participation and democracy. At the same time, notions and concepts derived from *adat*, Islam and the state fed into regulations, policies and concrete projects from the provincial level down to the villages, shaping a new relationship between the three normative orders.

In public statements and in writing, protagonists of *adat* and Islam encroached more or less subtly on the traditional home terrain of the other, engaging in

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different strategies of universe maintenance (Berger and Luckmann 1966: 133). By issuing a *fatwa adat* the Adat Association sought to demonstrate that it also claimed authority to speak for Islam, in contrast to the Council of Religious Authorities (*Majelis Ulama Indonesia*, MUI), which according to a member of the Association of Adat Councils ‘only’ spoke for religion. The chairman of the provincial branch of the MUI in turn emphasized that “of course, *ulama* are capable of teaching *adat*. After all, they are Minangkabau.” Islamic Universities have started to offer courses in *adat* law. In *adat*-minded publications, Islamic kinship terms and rules are translated into *adat* (as in the LKAAM publication 2002), while the *adat* that is truly *adat* is redefined as religion by religious scholars (Salmadanis and Duski Samad 2003).

New regulations

These discussions formed the background against which the more concrete legislation and implementation of the new village government took place. The Provincial Regulation No. 9 on *Nagari* Government in December 2000 provided the basic guidelines for village government. The *nagari*, as they had existed before 1983, would be reestablished. The village government would consist of an elected mayor, his staff, and an elected legislative body, the Representative Council of Village Citizens. Its members would be chosen in free elections. In addition there were to be a Village Adat Institution, or Council, to mediate in disputes relating to lineage property and to protect *adat* in general, and an ‘Adat and Religion Consultative Council’ that was to advise the village government on *adat* and religious matters. Only one district regards the Village Adat Council as part of village government, while the others regard it as separate from the official village government.

The districts whose district heads were close to one of the Islamic parties allowed for a separate Islamic Advisory Council. This is a rather exceptional attempt to create an institutional basis for religion within village government. The mosque personnel have always been clearly separated from village government, and official administrative tasks (marriage and divorce) are carried out by a village functionary under the Department of Religion. Where such councils have been installed, they do not seem to play a role in any practical sense thus far. It seems to be primarily an ideological statement, though some claim that religious political parties use it as an entry into the villages where they may not operate as political parties.

Village politics

The reunification and reorganisation of the *nagari* led to new dynamics in village politics.⁸ The villages were to have more responsibilities and regulating power and this was met with excitement as well as apprehension within the village. They felt they could no longer sit back and wait for instructions from higher authorities, as had been common under the Suharto regime. The new importance of *adat* and *adat* leadership motivated many Minangkabau, villagers and urban residents, to become lineage heads, and this is further encouraged by the state government. Recently, many long vacant positions of lineage heads were filled again, often in ‘wholesale processes’ in which several lineage heads were installed on the same day. The prospect of greater economic village autonomy and more control over village resources generated a renewed interest in the position of Chairman of the Village Adat Council. The process also rekindled interest in the political processes of the *nagari* among wealthy and influential migrants living in major Indonesian cities, who had in the past found it difficult to identify with their home village ever since the introduction of the *desa* structure. Many migrants have in the meantime run for mayor, offered financial support or have taken on more or less formal consultative roles.

Adat principles were important for the new *nagari* formation. According to provincial and district regulations, a *nagari* may be divided, that is, a *desa* may retain its independence, only after consultation of the whole *adat* law community of the *nagari* in which the Village Adat Council and other social leaders have reached consensus, and this decision has to be confirmed by the district head. *Desa* whose population had consisted predominantly of migrants or descendants of slaves had enjoyed a certain amount of autonomy under the *desa* structure. They resisted unification fearing that the heads of the old lineages residing in the older parts of the *nagari* would reassert their rights in *adat*. In some *nagari* this has led to an impasse in the reunification process (see F. and K. von Benda-Beckmann 2001, n.d.).

Adat leadership and principles were particularly important in the social processes in which the new village institutions were set up. The chairmen of the Village Adat

⁸ For variation in these dynamics, see: F. and K. von Benda-Beckmann 2001, n.d.

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Councils often took a lead in decisions about reunification, in defining the social categories to be represented in the village parliament and the consultative body, and in organising elections and the formation of the new village administration. While final elections took place in secret ballots, nominations invariably were the result of processes of common deliberation according to *adat*. In these processes, too, some of the *adat* social stratification resurfaced. Though most people fully subscribe to common deliberation, younger villagers and immigrants had little influence on the selection of *adat* officials.

Adat leadership: new dualism, new hybrids

The increasing importance of *adat* emerges primarily as entangled in the state regulated structure of village government where new hybrid forms are being created. The separation of the *adat* community and the lowest level of state administration of the *desa* structure has come to an end and with it, the pre-*desa* dualistic structure has resurfaced. The term ‘dualism’ may not fully capture the complexity of village government. In the state regulated Representative Council, a number of positions are reserved for *adat* elders, but for the rest it is composed of the main ‘functional group categories’: religious leaders, women, intellectuals, and youth; a situation very similar to the pre-*desa* village councils. Like in the *desa* period, the Village Adat Council of *adat* leaders is heavily regulated by the government, but it operates quite differently from its – not officially recognised – precursor of the 1970s (see K. von Benda-Beckmann 1984). In contrast to lifelong *adat* leadership, the offices of chairman and secretary are limited to five years, and all decisions are written down in the formal style of government documents. However, there are indications that some form of ‘governance according to *adat*’ still exists parallel to or even integrated into the Village Adat Council. One instance is the *Nagari* Regulation on Installations of Lineage Heads, made in the *nagari* Canduang Koto Laweh in 2004 and submitted to the village parliament, which bears two signatures: one of the Chairman of the Village Adat Council, and one of the *tambang adat* (lit.: the mine of *adat*), the head of the Adat Council according to *adat*, and who, in the mid-1970s, was head of the then unrecognised Village Adat Council.⁹ It might be argued that *adat* itself has become more

⁹ We have also come across examples of some local *adat* leaders staying away from the Village Adat Council and regarding the Council of *Panghulu* as the only true *adat* body.

bureaucratic, and that the present Village Adat Council is a new hybrid in which state regulation has become even more important than in earlier times. Many of the *adat* leaders are retired headmasters, military or police officers, civil servants, judges or lawyers, i.e. persons well versed in and comfortable with the bureaucratic procedures of the modern Indonesian state.

Redefining the relationships by village regulations

The new *nagari* governments developed a great affection for regulation. Once the new villages were established, the main issue was how to ensure its economic and social development. Nearly all *nagari* set up Village Development Organisations (*Lembaga Pempemdayaan Masyarakat Nagari*, LPMN) for economic and social planning, often incorporating migrants living in the cities. Villages also regulated a number of new levies. The village of Sungai Batang, for instance, imposes levies on 19 different items, including various types of permits. Others invented a general residential family head tax of between 7,500 and 15,000 *rupiah* per month for the development of the *nagari*.¹⁰

Apart from regulations directly related to the operation of village government, some villages have also started to make regulations for issues which already are regulated by *adat* or Islamic law. Regulation No. 6 of *nagari* Sungai Batang, for instance, dealing with matrilineal heritage, threatens with heavy *adat* sanctions people who marry within their clan or outside their religion or change their religion; such sanctions might include different degrees of ostracism, and even, if the offence is committed by an *adat* leader, deprivation of his title. In other villages, people pledging land without the consent of the *adat* elders can be punished. Some old *adat* prescriptions return in the guise of administrative fees. *Adat* endogamy, which had been rather strict *adat* law until the mid-20th century, resurfaced in a regulation laying down that, should a man marry outside, he had to pay 50,000 *rupiah*; if a woman marries an outsider, it is 100,000 *rupiah* (Padang Laweh no. 1 of 2002). Some have also issued regulations on public order and morality, intending to ‘respond to the outside influences on *adat* and religion’, and give people guidance by means of *adat* and religious knowledge. These concern ‘societal illnesses’ such as gambling, consumption of alcoholic drinks, drug abuse, free sexual behaviour, and porn movies. Women must be dressed in accordance

¹⁰ At that time, one US \$ was about 10,000 *rupiah*.

with *adat* and *sharia* norms. Sanctions can be quite heavy with penalties up to 10 million *rupiah* (regulation no 3/2002 of *nagari* Taram).

Similar campaigns for Islamic dress codes for women take place in town, though they are more contested there. For example, the head of one of the districts did not want such a regulation, despite heavy pressure from amongst his staff. This was to be a personal choice of every women and the government had no business interfering, in his view. However, his deputy was a deeply religious man, who made it a point to address women in the office and inquire whether they would start wearing Islamic dress. And indeed, it has become increasingly popular to wear Islamic dress to the office, something that was not done during the 1970s and 1980s.

In rural areas the discussion about *adat* and religious values, and going back to the *surau*, also led to the founding of new prayer groups as a way to renew the contact and mutual understanding among the new *adat* community of the *nagari*. The new mosques and *surau* built during the *desa* period obtained a new meaning. In Padang Sibusuek, for example, a man of high religious reputation who had built a mosque and founded a religious school for his family and lineage only, was reproached by *adat* leaders, referring to the *adat* unity of the *nagari*, which prescribed only one main communal mosque. Though not everybody in the village shared this view, it certainly exemplified a shift in the perception of the relationship between *adat* and religion. *Adat* was no longer a mere embellishment of an otherwise Islamic institution.

The new regulations and practices of *nagari* formation thus show high but varying levels of hybridisation, reintroducing *adat* into the realm of village government, installing institutions for Islamic leaders, and regulating issues of *adat* and Islam. We shall now see how the issues of village organisation have wider implications especially for village commons.

Village Commons

The rights to control and exploit village commons have always been contested, ever since the colonial government issued its Domain Declaration of 1874. This policy was largely continued after Independence, though the Basic Agrarian Law of 1960 was ambivalent in its recognition of rights to village commons. During the colonial periods and until the early years of the Suharto regime, outright

expropriations in West Sumatra remained limited. Where the government did not directly interfere, the older ways of controlling access and using village commons were more or less condoned by the state government as part of village government. However, much common village land had been declared state forest. Moreover, during the last decades of the Suharto regime, large tracts of land were expropriated for the recovery of drinking water, for the cement and building industries, and increasingly for timber companies and palm oil plantations. When after 1983 the purely administrative village structures no longer matched with *adat*, the government felt obliged to regulate the authority of the Village Adat Council over village riches. This had only limited practical consequences, because according to the state's legal interpretation village commons were mainly under state control or even in state ownership.

With the greater political freedom of the *Orde Reformasi*, as the post-Suharto period was called, and the rising need to generate revenues within the villages, the long repressed claims to village commons exploded.¹¹ Discussions about village commons started as discussions about land, but because in the *adat* conceptual order village commons include all resources on the *nagari* territory, the struggles soon extended to forest and subsoil resources. The main issue of the *adat fatwa*, i.e. which law governed rights to the village commons, became a core issue in decentralisation processes. Moreover, as the central government under the new fiscal decentralisation is expected to lower the level of its services, it became of vital importance for villages to look for their own revenues and rights, and the issue of control over village commons has moved centre stage.

Struggles over the appropriate law

In response to the nationwide pressure since the late 1990s, the central government decided to resolve the matter for the whole country and issued a ministerial regulation concerning the recognition of village land in 1999. It recognised the *adat* status of village commons, but only in as far as the land “continues to be held as in the past by the *nagari*, where village commons still exist in reality, and where the relationships between *adat* law community and village commons have not been severed in the course of time” (Kamal 1999). As this regulation would

¹¹ This happened all over Indonesia. See: Li 2001; Sakai 2003; F. and K. von Benda-Beckmann n.d.

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validate all actions by state agencies regarding village commons taken in the past, including the transfer of all former Dutch plantations on previously village commons to the state, it has met with much critique. *Adat* protagonists claim that village commons revert to their *ulayat* status and thus to the village *adat* community because the basic principle of Minangkabau *adat*: ‘The buffalo gets up, the watering place remains’ (Min.: *Kabau tagak kubangan tingga*) cannot be abrogated. In this view, only temporary rights can be assigned to villagers and outsiders. Government regulations in denial of this principle “cannot be valid” (Sjahmunir 2003; see also LKAAM 2002). Since 2000, most debates and public demonstrations have concerned the drafts for a provincial regulation on village commons.¹² The drafts submitted by the provincial government of West Sumatra with the aid of the National Land Administration Board follow the principles of the 1999 ministerial regulation; counter-drafts proposed by the Association of Adat Councils contain the radical *adat* law version. By mid-2006 there was no agreement in sight.

Contesting village commons

While the political fights about draft regulations were still continuing, some villages had successfully started to reclaim what they considered to be their village commons. This was achieved mainly through self-help activities, such as occupation of plantation land or wild coal mining, usually followed by negotiations with state agencies and private companies. The Padang Cement Factory mentioned earlier became a famous case with much media coverage. Another famous instance was when the village of Sungai Tenang where the source of the drinking water of the nearby town of Bukit Tinggi was located cut off the supply until a share of 6% in the profits of the City Drinking Water Company had been successfully negotiated (F. and K. von Benda-Beckmann 2001, n.d.; Sakai 2002; Afrizal 2005). In general there is growing recognition of the legitimate claims of village communities to share in the revenues of companies using village commons. Companies wanting to invest no longer assume that they have to negotiate the

¹² In 2001 and 2002 there were demonstrations of people carrying banners with texts such as ‘*Ulayat* land is not state land’, and in summer 2002 hundreds of farmers, fishermen and academics from the local university protested against an insufficiently *adat*-friendly draft law on *ulayat* in the seat of the provincial government.

terms of contract with the highest regional official only, but negotiate support from the village government as well. However, while first successes have been achieved, it is difficult to predict the eventual outcomes, defeats, victories and compromises of these struggles. Many of these processes are negotiated rather than brought to the state courts. Negotiation processes regularly involve representatives of government and village and *adat* leadership.

Internal control over village commons

Since the new *nagari* were founded and villages obtained more autonomy, the issue has become more concrete and affects relationships within the villages. The main legal and political question is who controls the *nagari*'s resources and revenues, the mayor as the head of village government or the Village Adat Council as holder of traditional *adat* authority? The provincial Regulation on Village Government of 2000 leaves the question open and the provincial draft regulation does not clarify matters either. It simply states that village commons are under the control of 'the *adat* law communities of West Sumatra according to *adat* law', to be administered by the village government together with the Village Adat Council.¹³ The dominant trend seems to be towards the mayor as the official village government taking control over all *nagari* resources. But many mayors have difficulties laying their hands on the resources still controlled by the *adat* elders or the Village Adat Council. Some villages deal with this tension by combining the office of mayor and Adat Council chairman in the same person.

Actor constellations: adat and the state

Complex constellations and coalitions developed around the village commons, some of which strengthened while others weakened the *adat* front. For villages the issue has become important because village commons are potential sources of revenue. Some villages have taken the opportunity provided by the post Suharto freedom to speak up for long suppressed claims. The Association of Adat Councils is a strong proponent of *adat* but it does not stand alone in its struggle to get *adat*

¹³ A recent circular letter of the provincial government stated that these resources were to be handed over from the Village Adat Council to the *nagari* government, but this will hardly solve the problem.

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recognized. A broad alliance with NGOs and civil society activist groups such as the Legal Aid Bureau or the Forum of Concerned West Sumatrans take a similar position in this issue. Several members of the faculty of law of Andalas and Bung Hatta University who were advising the provincial government, and several of whom also had a position in their home village as traditional family head or as more informal advisor, strongly supported the *adat* conception of *ulayat*, playing the media and their personal contacts within the provincial administration. Influential migrants in Jakarta and other major cities, among them many retired civil servants and military officers, support claims and help to balance the power relationships between state agencies and villagers (see Biezeveld 2002, Indiyanto 2004). But while the members of the Association of Adat Councils fully identify as *adat*-champions and consider *adat* authorities as the legitimate title holders, other organizations fight for recognition of *adat* rights without implying an extensive role for *adat* leadership. They distinguish the substantive rights embodied in *adat* from the organization that should claim these rights and control the village resources. For them *adat* and village commons belong to the people, and management and control should be entrusted to uncompromised civil society organisations. *Adat* rights are supposed to support the interests of the population and not to strengthen 'feudal' positions of corrupt *adat* leaders.

The various government agencies are in a fix. The governor and many district heads support the back-to-the-*nagari* politics for electoral reasons. Many of them have a lineage head title, and one former chairman of the Association of Adat Councils has even become district head. They have at least rhetorically to endorse the significance of village commons as an important marker of Minangkabauness and they have to balance their credibility against their wish to control resources themselves. In its struggles with the National Ministry of Public Resources over the cement factory, the provincial government strengthened its justification for local control by the province or districts also by reference to *adat*. Their argument is that because the cement factory is located on village commons, and as land with this status cannot be sold, the factory thus cannot be transferred to the transnational Cemex enterprise (Sakai 2003: 152). This does not prevent the provincial government from promoting the state's overriding claims to regulate village commons vis-à-vis villages. The districts are divided. In districts where there are hardly any village commons left, district officials feel free to take a liberal attitude, whereas the district heads of the districts with large plantation and timber resources simply deny there are village commons left. For them the main problem is not whether *adat* or the state controls village commons, but whether the central state or, as it should be according to the decentralisation laws of 1999, the

districts control village commons ‘for the people’. Since the Ministry of Forestry and the National Land Administration have refused to comply with decentralisation legislation, districts use references to village commons in addition to the law on decentralisation to claim legitimate local – in this case: district – control.

The history of village commons shows that rights to village commons have always been an integral part of *adat* village leadership, but that these have simultaneously been assumed by different state authorities at different levels of state administration. While the government condoned control by village leaders according to *adat* over land that was not explicitly brought under state control, it never recognised these rights officially. For long periods, these tensions were mainly between the *nagari* and the central state. First changes took place with the introduction of the *desa*, which dissociated the local unity of *adat* leadership in government and rights over the village commons. With the return to the *nagari*, both the role of *adat* leadership in village government and in their control over village commons became hot and mutually reinforcing issues again. But the constellation of state actors involved had shifted downwards towards state agencies at district and village levels. In the current struggles, actors use *adat* references to village commons selectively to legitimate political and economic demands in various constellations of contestation, ranging from the national down to the village levels. Generally it can be said that the importance of *adat* rights for village commons has increased, primarily as an ideological device, but less so in concrete negotiations about specific resources. The struggle between village and state land administration as well as within villages over the proper law and the proper locus of control still continues.

Inheritance of Self-acquired Property: *adat* and Islam – and the State

While Islamic protagonists at a relatively early stage decided to leave matters of inherited lineage property to *adat*, they launched their attacks, mainly supported by urban merchants, primarily at the inheritance of self-acquired property (Dobbin 1983). According to Islamic inheritance law, such property is to be inherited by the Koranic heirs and not by matrilineal kin. The issue was hotly disputed in village and provincial politics throughout the first half of the 20th century. Under the influence of changing social and economic conditions and pressure from Islamic and modernist sides to allow such property to be inherited by a man’s children, the strict matrilineal *adat* rules and inheritance practices slowly changed.

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While the issue concerned the relationship between *adat* and Islam, the state, notably state courts, participated in this contestation at a distance. The colonial courts also supported the development towards greater individual autonomy of Minangkabau men over their self-acquired property. In the 1930s, the highest colonial court declared that a man could dispose of his self-acquired property without the consent of his matrilineal relatives. Intestate inheritance remained in accordance with *adat* matrilineal rules. In 1968, the Supreme Court decided that a man's self-acquired property was to be inherited by his children 'according to changed *adat* law'.

While in the 1960s and 1970s the inheritance law regarding self-acquired property became less problematic in village practice and in the courts, in the public arenas of the province the struggles over the valid laws of inheritance with respect to self-acquired property continued. It was the most crucial point in the *adat* - Islam relationship, a *pars pro toto* for the general relationship between *adat* and Islam (see Naim 1968). While it was generally acknowledged that the rightful heirs to a man's self-acquired property were his children, the bone of contention shifted to the question whether this change was to be interpreted as a change in *adat*, or as a shift from *adat* to Islamic law? The dominant view in the provincial public arena became a compromise which *adat* leaders, religious leaders, intellectuals and local politicians ratified at two seminars in 1952 and 1968: inherited lineage property was inherited according to *adat*, self-acquired property according to Islamic law (Naim 1968). This compromise was persistently restated in interviews with judges at the state courts of first instance and the chairman of the Court of Appeal when we did our research in 1974. It was also regularly restated thirty years later (in 2005), for instance in our interviews and in books on ABSSBK (LKAAM 2002 and Salmadani and Duski Samad 2003). The 'inheritance consensus' is a dogma and a central element in the ABSSBK formula.

Apart from the question of the substance of inheritance rules, Indonesian legislation after independence in successive steps provided more room for Islamic law in the fields of inheritance, gifts and testaments, and by the extension of the jurisdiction of Islamic (state) courts in 1989. In inheritance matters, civil courts apply *adat* law, while religious courts apply Islamic law. In the early 1990s the government issued a 'Compilation of Islamic Law' (*Kompilasi Hukum Islam*), containing guidelines for the interpretation and application of Islamic law in the religious courts, explicitly not termed a 'law'. It is a codification-like text, which to some extent clarifies and simplifies standard Islamic law, but also provides compromise formulations for instances in which state law, Islamic law and *adat*

differ. For example, articles 210-212 of the *Kompilasi Hukum Islam* represent a hybrid interpretation of *hibah*, combining adat and Islamic principles (and see also Djakfar and Yahya 1995: 153). Minangkabau (like all Muslim Indonesians) thus have a choice between civil and Islamic state courts in certain matters of family, property and inheritance law, and they have clearly opted for *adat*. Only very little use is made of Islamic courts. In the 1970s, very few brought their disputes about inheritance of self-acquired property to a religious court, and in the few cases where this happened, the court was rather reluctant to make a decision. Most of these disputes were brought to the civil courts (F. von Benda-Beckmann 1979; K. von Benda-Beckmann 1984). Our research on the use of courts in inheritance matters between 1980 and 2004 shows that nearly all disputes about the inheritance of self-acquired property, gifts and wills, have continued to be brought to the civil courts, which apply (new) *adat* law, and not to the religious courts, where Islamic inheritance law would have been applied.¹⁴

Thus the relation between *adat* and Islam in the field of inheritance as expressed in the public political and ideological rhetoric in meetings, oral and written public statements differs from state legislation, and from court practice and inheritance processes within villages. Many of those who uphold the inheritance consensus know that the actual practice in the courts is different, and that the law applied to inheritance of self-acquired property is neither a strict interpretation of Islamic law nor in line with the 'old' matrilineal principle. The courts, *adat* experts and most people treat it as changed *adat* law. State agencies are rather indifferent to this question, although they tend to support the *adat* view rather than the Islamic interpretation. For *adat* protagonists, the change does not constitute a problem, because *adat* has its own theory of change, as is evidenced by numerous *adat* sayings. Within a discourse of Islamic law, this is more difficult since the *sharia* and *fiqh* would not allow such drastic deviations from the inheritance law. What the courts actually do, therefore, is not scrutinised. Inheritance within the conjugal family – this was always the main issue – is secured, and on the Islamic side this is interpreted as a victory of Islam, if not of Islamic inheritance law. ABSSBK and the inheritance consensus, on the other hand, ensure a balanced relationship.

¹⁴ This is quite a contrast to other regions, e.g. the Gayo region in Northern Sumatra. See: Bowen 2003; K. von Benda-Beckmann n.d.

Pusako: adat and the State – and Islam

When the Padri were defeated and the Dutch incorporated West Sumatra into their colonial state, the categorical system of *adat pusako* remained the backbone of Minangkabau society. The colonial government left this relatively unchanged throughout the 20th century, and this is how it continued into the post-Independence period. However, the differentiated categories of inherited lineage property and their different legal consequences were often misinterpreted and trivialised in colonial and, later, state court judgments and academic writings. The colonial government also pushed for changes within the system, strengthening the powers of the lineage elders acting as representatives of the lineage property complex, and relaxing the *adat* limitations for the pawning of inherited lineage property (F. and K. von Benda-Beckmann 1985. On the first attempt to merge Dutch property law with *adat* elements in 1853, see F. von Benda-Beckmann 1979: 320). ‘Modern needs’ such as school fees or the pilgrimage were increasingly recognised as legitimate reasons for pawning. Besides, the conditions under which the last members of an extinct lineage could sell inherited lineage property were softened. But overall, the *adat* principles of allocating rights to inherited lineage property and its inheritance patterns are still unchallenged.

Conversion of pusako into hak milik

A major challenge to *adat* property law came with the Basic Agrarian Law of 1960. Its main political purpose at the time was to get rid of the pluralistic land law through a uniform agrarian law. Categories of property as well as conditions and procedures for land transactions (sale, pledging, rent, sharecropping) became subject to state regulation. Furthermore, the Basic Agrarian Law was to promote the individualisation of communal lands by introducing individual titles, and it demanded conversion and registration of *adat* land rights into the legal categories of the Basic Agrarian Law that were largely modelled after Dutch law. The most important category, *hak milik*, more or less corresponded to ownership. The inherited land of a lineage could be registered as one property right. Self-acquired property could also be registered. Registration has been rather unsuccessful so far in Indonesia in general (Haverfield 1999: 57; Slaats 2000) and in West Sumatra in particular. Later programmes for cheap and efficient registration (PRONA) and the World Bank Project, which gave special attention to the question of registering communal land (Slaats 2000), were equally unsuccessful. Land registration has proven to be a source of many disputes. Most people fear that registration of

inherited lineage land withdraws the land in question from the allocation and inheritance rules of *adat*, and it is then likely to be inherited by a man's children. In the case of registered self-acquired property, registration would stop the process whereby self-acquired property becomes inherited lineage property. The Association of Adat Councils militates against the registration and cheap registration programmes.¹⁵ In recent years, the external pressure by the World Bank has relaxed as other issues, such as good governance, have become more important. The government in principle would like to continue the process but depends on the voluntary registration by the people, having no funds for cheap registration programmes. For the time being, the law relating to inherited lineage property, its allocation, transfer and inheritance continues to be *adat* law.

Nibbling at inherited lineage property

Therefore, the core of the *pusako* property system still stands and the inheritance consensus still holds. However, Islamic law also tries to reach into one of the basic mechanisms of the reproduction of the *pusako* system, namely the rule that all self-acquired property eventually becomes inherited lineage property. Fifty years ago and still today, Islamic leaders demanded that once a property had been inherited according to Islamic law, it was always to be inherited according to Islamic law. While it strains the semantics considerably – after all it is rather challenging to claim that self-acquired property that has been inherited is still self-acquired – it certainly would undermine the processes of '*pusakisation*' of self-acquired property and weaken the material basis for the matrilineal principles. Thus, although inherited lineage property is not a central issue in the decentralisation policies and reorganisation of villages, the issue is implied because it provides the material basis for *adat* leadership. The pressure to recognise donations, '*hibah*', of inherited lineage property to a man's children also nibbles away at *pusako*. Equally dangerous are state law and state property categories, at least as far as land rights are concerned. If self-acquired property is converted and registered under the Basic Agrarian Law, it would become *hak milik*, ownership, and henceforth keep this status and be inherited in the conjugal family forever. This is one of the

¹⁵ LKAAM (2002) mentions another issue in which *adat* and state law contradict each other. In the case of the pawning of *pusako* property the law states that, if pawned property has not been redeemed after a period of seven years, it can be demanded back without repayment of the sum lent.

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reasons why registration of land is so difficult in Minangkabau. In an interview with one of the officials of the Land Administration Board in Padang, who is a titled lineage head and chairman of the Village Adat Council in his own village, he stated that most people were ambivalent. If asked in private, they would prefer registration. But in public, they wanted to maintain *adat*. We asked him about his own situation of being an official of the National Land Office during daytime and a lineage head in the evenings. Yes, there were problems, but in principle he was for registration. But then he laughed. As the Minangkabau say ‘one body, two forms’ (Min.: *Badan ciek bantuak duo*).

Conclusions

The relationships between *adat*, Islam and the state law have a long and eventful history, in which ‘hotspots’, periods of struggle and intensified negotiation, have alternated with periods in which the tensions remained under the surface. During the past hundred years, this primarily took place in regular public debates and in extensive writings by Minangkabau *adat* leaders, religious authorities and politicians. As Bowen remarked, the Minangkabau have perhaps debated these relationships the most explicitly and elaborately of all Indonesian ethnic groups in their efforts to have the different orders co-exist “through sustained public reasoning, a restless, endless process of deliberation, intended sometimes to accommodate others, sometimes to exclude them” (Bowen 2003: 253ff.). The authorities of these systems were incessantly busy to position and reposition themselves against the others. One result was that repositioning two of the three legal systems almost always implicated the third one. In this sense, changing one is indeed changing all.

When turning to more specific issues, the processes of linking look different, and within the context of each of the legal systems links are established in specific and often incommensurate ways. We have seen that the negotiations about the relationships clustered around specific issues. Currently the core issues are the reorganisation of village government, *adat* leadership and control over village commons, but there were times when property and inheritance were the main issues. However, even when there is a selective focus on one of these core issues, they are seen as expressing the general relationship between the three bodies of law. In the negotiating processes on concrete issues, whether in provincial politics or in villages, the actors are aware that the overall relationship between the legal systems is always implied, and most actors do consider the wider social and

economic implications that changes within the systems and in the relations between the systems are likely to have. We have seen that the position of the Village Adat Councils in the first place is an issue of ‘village government’. Secondly, it is a matter of the overall importance of *adat* vis-à-vis the state. It is also seen as having implications for related issues such as control over village commons, property, registration of inherited lineage property, and inheritance. These effects are enhanced by the systemic character of the systems and incongruence of their respective major institutional categories. For example, the main attack on *adat* from the side of Islam concerned ‘inheritance’ and was not aimed at redefining ‘property law’ as such. In *adat*, however, there is no clear distinction between property and inheritance law. Here, property law *is* inheritance law. Changes in inheritance therefore would threaten the whole property order. The state legal system treats village government, inheritance and village property as more distinct realms, recognising *adat* as the proper (private) law for inheritance, but not for village property. These rights were interpreted as public rights, where *adat* leaders’ public rights have been superseded by those of the government. The government by and large accepted *adat* or Islamic inheritance law, but was keen to redefine *adat* property by the introduction of property categories derived from Dutch law. These systemic divisions, however, had no correspondence in *adat* – one could not change one property category or inheritance in isolation.

The consequence is a constant stream of deliberations and practices to resolve these differences, contradictions and incongruities. It has led to a large number of mutual influences and processes in which concepts, rules and principles from different orders are combined in hybrid rules and institutions. This happens in as diverse issues as the *fatwa adat*, democratic elections, the institution of *hibah*, state regulation of the traditional *adat* community and Village Adat Council, village regulations of Islamic dress for women, and of *adat* rules and procedures. Yet at the same time, *adat*, Islamic law and state law are also regarded and treated as distinct legal systems.

All these negotiations and struggles, all attempts to come to grips with these contradictions take place in the ideological context dominated by the ABSSBK ideology, the idea that the co-existence of *adat* and Islam is the basis for Minangkabau individual and collective identity, and that some accommodation with the state and its constitution is necessary and desirable. This always provides short-cuts to interdependence. This was obvious when the role of Islam also became implicated in the village reorganisation under the heading of the ‘back to the *surau*’ discourse. Although this discourse also stressed the unity of *adat* and

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religious values and modern education, it had an Islamic bias which translated into a host of regulations on public morality. In the background it could be interpreted as implying a greater role for Islamic law also in property and inheritance matters. This potential prominence of Islam then motivated *adat* protagonists to actively support the discourse and try to capture it. The provincial government also captured the ‘back to the *surau*’ movement, establishing a team for its further elaboration and implementation, headed by the governor himself. The ‘three interwoven threads’ of legitimate authority were united again.

While at the ideological and at the general legal level the systems remain distinct, this finds its correspondence less and less in the social status of and the social relationships between the main actors. The many interdependencies of changes across the boundaries of arenas and domains, which we have shown, are the consequence of the fact that many relevant actors participate in a great number of these arenas, often with different hats. Many civil servants are *adat* and religious leaders, and vice versa. Because so many actors wear more than one hat, they often have to perform delicate balancing acts. They have to show, on the one hand, that they represent or push forward one position or one legal system. But they also have to show that they are good Minangkabau and stand for the ideological unity of the three legal systems as well. Thus, advocating a dominant role for *adat* is not perceived as legitimate unless the ideological unity is also emphasised. Thus by the advocating of one legal system, the other two are always reproduced at the same time. Moreover, actors have to balance the gaps between public statements and intentions on the one hand and the actual practices on the other, and try to maintain their credibility. As a consequence, many statements and negotiations are full of ambivalence and contradiction.

Finally an analysis of the developments in West Sumatra that differentiates between the various actors and arenas involved shows that the interpretation of change depends on the time scale used and the experience of the beholder. Persons younger than 40 years have never experienced living under a *nagari* government. For them the change from *desa* to *nagari* is considerable. Compared with the uniform *desa* structure the change was remarkable indeed. The current villages are much larger and the dual structure of *adat* community and state administration has been reestablished. There is an enormous interest in *adat* which is reflected in the great number of installations of *adat* leaders, predominantly persons with a higher education and a job in town. Moreover, elections have become more democratic, although the processes are a curious mixture of Western and Minangkabau consensual democracy. For older people it is much more a return to familiar

structures of *nagari* administration during the first half of the Suharto regime, to the comfort of some and the dislike of others. Despite the enormous mobilising force of *adat*, its concrete influence on the institutional organisation of village government is rather modest. The Village Adat Council is once more not an official village government organisation. The most important issue of the control over village resources is still pending, although here is a great upsurge and increasing importance of *adat* law. The influence of Islam on the village government structure has remained marginal despite the ‘back to the *surau*’ movement. However, some changes are interpreted as substantial by old and young likewise. There is an enormous increase in regulations of *adat* and religious issues, and of sanctions and fees, often based on *adat*, but made possible because of the regional autonomy legislation. And these, once more, reflect the unity of *adat*, Islam and the state. All these past changes occurred under the slogan of ABSSBK, which despite its mantra-like use by many is also seen as having prevented violent conflict and offering a creative perspective on the future (Abdullah 2003; Abdullah Dato’ Firdaus 2003: 65). As the provincial chairman of the Indonesian Council of Ulama Religious Authorities MUI emphasised, ‘Minangkabau is quiet and safe as long as there is ABSSBK.’

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