Legal Pluralism and Land Administration in West Sumatra: The Implementation of the Regulations of Both Local and Nagari Governments on Communal Land Tenure

Authors : Hilaire Tegnan

Abstract : Land administration has always been a delicate issue in the history of nations, and Indonesia, a country where a significant number of the population lives a pastoral life is not exempt from this reality. This paper discusses land tenure issues in West Sumatra, an Indonesian province which is home to the Minangkabau people with their long existing village management system known as Nagari, established to settle disputes based on adat (custom) principles as well as to protect the rights of the community members. These rights include communal land (referred to as tanahulayat hereafter). Long before the Dutch occupation of Indonesian archipelago, the nagari government was vested with powers to regulate communal land in West Sumatra. However, this authority was constantly overlooked by the then Dutch colonial administration as well as the post-independence governments (both central and regional). To reinforce the Nagari government as the guardian of the customary law (hukumadat) and to specify its jurisdiction, the Regional Government of West Sumatra enacted two laws between 2000 and 2008: Law No. 9/2000 repealed by Law No. 2/2007 and Law No. 6/2008 on communal land tenure. Although these two laws provide legal grounds to address land issues across the region, land conflicts still prevail among West Sumatran populations due to unsynchronized and contradictory regulations. The protests against the army (Korem) in Nagari Kapalo Hilalang, against the oil palm company in Nagari Kinali, and against a cement factory in Nagari Lubuk Kilangan are cited in this paper as case references.

Keywords : local government, Nagari government, Tanah Ulayat, legal pluralism, land administration