

Tanah Ulayat and the Pembangunan Issues in West Sumatra

中島, 成久 / NAKASHIMA, Narihisa

(出版者 / Publisher)

法政大学国際文化学部

(雑誌名 / Journal or Publication Title)

異文化 : journal of intercultural communication : ibunka

(巻 / Volume)

4

(開始ページ / Start Page)

31

(終了ページ / End Page)

52

(発行年 / Year)

2003-04-01

(URL)

<https://doi.org/10.15002/00002108>

Tanah Ulayat and the *Pembangunan* Issues in West Sumatra*

NAKASHIMA Narihisa

1. Foreword

As *tanah ulayat* (communal land) has been a very important resource for the Minangkabau people, which used to be owned by *kaum* (maximum lineage), *suku* (clan) or *nagari* (village), land issues have been very serious in West Sumatra. Before Suharto's fall in 1998 land issues in West Sumatra have been discussed among *kaum* members, or *suku* members, or between a *suku* and other *suku*. But *tanah ulayat* issues after Suharto's decline are characterized as the issues between people and the government or military. Under Dutch colonialism *tanah ulayat* had been leased to Dutch companies. But, since the advent of New Order Indonesia, when the *Pembangunan* policy was initiated, a lot of *tanah ulayat* have been used for *Pembangunan* such as military and state business, offices, and resort areas without any compensation or rent. People have not been able to claim their right to those lands due to the wide-spread violence of the government and military of the New Order. Thus the people supported *Reformasi* (Reformation), and which gave people courage enough to claim their right to *tanah ulayat*.

There have been three kinds of land ownership in West Sumatra. One is *tanah negara* (government land), the second is *tanah pribadi* (private land), and the third is *tanah ulayat*. It is estimated that approximately 80 % of the land in rural areas of West Sumatra is still designated as *tanah ulayat*. As there are still only small amounts of

tanah negara and *tanah pribadi*, the government took over the *tanah ulayat* without any consensus of the *rakyat* (people) under the name of *Pembangunan* (Development). The people's right to *tanah ulayat* is outlined in the articles 3 and 5 of *Undang-undang Pokok Agraria* (The Principle Law of Agriculture), 1960. Nevertheless, the Suharto regime utilized the *tanah ulayat* for the development without any compensation. People had to remain silent just because of the violence and terror of the New Order period. According to *Peraturan Menteri Negara* (Regulation of the Ministry of Inner Affairs), No.5, 1999, which basically admitted the people's right of *tanah ulayat*, prescribes that this right would not include HGU (*Hak Guna Usaha*; usufruct) which had been designated prior to that regulation,¹ many people were very disappointed in this regulation, as it makes it difficult to make legitimate claims.

For the last two years I have been conducting field surveys on this topic in West Sumatra: Nagari Mungo, Kabupaten Limapuluh Kota, Nagari Kepala Hilalang, Kabupaten Padang-Pariaman and Bukit Gompong, Kabupaten Solok, and so on.² I found that the *tanah ulayat* issues in those cases have involved violence, terrors and under-the-table negotiations. By August 2002 more than thirteen locations of West Sumatra have claimed their right over *tanah ulayat*.³ The points concluded from my observations, I am certain, are not exception. It is astonishing to realize that the people had received almost no benefits during the time of New Order Indonesia, even when compared to the situation of *tanah ulayat* during the period of Dutch colonialism. They have complained that even the Dutch admitted their right to the *tanah ulayat*, and ask why the *Pemerintah Saudara* (brother government) will not acknowledge their right. This is a crucial question how the New Order Indonesia had claimed their legitimacy of utilizing *tanah ulayat*. This question might explain why the development policies of the New Order had been maintained not only through the hegemonic State Ideologies imposed by the central government⁴ but also through daily violence on the part of the regional government and the military. The people have become

suspicious that the development policies of the New Order Indonesia were not based on public interest, but on private interests of the government and military elite.

The two cases, Mungo and Bukit Gompong, involved court cases. The resolution of the Mungo case was suspended due to the lack of defendants. It has not been easy for the people to win these court cases, however, the issue is not simply to winning or losing the trials. Rather, it seems very clear that these struggles have helped the people to reaffirm their identity as Minangkabau. As once a *nagari* was recovered under the regional autonomy, all the apparatus of *nagari* are in position to support the right in most of the cases. Those people are not opposed development itself, but they demand a legitimate process of decision-making and proper compensation and income. This position is also not simply an assertion of regionalism; they have never said that they want to gain independence from Indonesia. Rather, they claim that their right over the *tanah ulayat* is clearly legitimate, and is based on their *adat*. And they emphasize that their right was acknowledged by even the Dutch colonialists. It is no wonder that *Reformasi* and *Disentralisasi* (Decentralization) in the regions cannot be achieved unless these issues are resolved properly. Without attention to these issues, they will trigger real regionalism and rebellions in the near future.

2. Terror and violence, the Mungo Case

The *tanah ulayat* of Nagari Mungo, which was divided into ten *desa* in 1983 based on *Undang-undang* No. 5, 1979 (Desa Law of 1979) and reunited into one Nagari Mungo in 2001, is located at the northern foothills of the Mt. Sago. The fertile area is not so steep, and is eight hundreds hectares. People used to cultivate *palawjia* (second crop in the dry season)⁵ and wet rice, too. Tobacco used to be cultivated as a cash crop before 1965. It is true that all the people of Nagari Mungo have the right to cultivate crops in their *tanah ulayat*, however, most of the people who

have utilized their right are the people of the sub-villages of *Jorong* (sub village) Indo Baleh Barat and Jorong Indo Baleh Timur which are located closer to the *tanah ulayat*.

In 1918 the *tanah ulayat* had been leased to the Dutch to raise horses and cows. Then the right of using the *tanah ulayat* was transferred to BPT-HMT (*Balai Pembibitan Ternak dan Hijauan Makna Tanah*). In 1950, thirty-six hectares of the *tanah ulayat* had been taken for use as a vegetable garden for the Kabupaten (Regional Government) Limapuluh Kota by the Bupati (Regent) of Kabupaten 50 Kota at the time. In 1974, BPT-HMT which was under the control of the Ministry of Agriculture, took two hundreds fifty hectares of the *tanah ulayat* of Mungo and opened a cattle ranch with aid from West Germany to export meat to ASEAN countries as well as for domestic consumption. Eighty percent of the ranch was on the *tanah ulayat* of Mungo; the other twenty-percent belonged to other four *nagari*. At the beginning there were five thousands cows, however, each time the head of BPT-HMT changed, it is said that the number of cows decreased until now there are only four hundreds cows. This comment hints at the possibility that each head of BPT-HMT received personal benefits by selling the cows for himself.

Then, PEMDA, the regional government of Limapuluh Kota, build SNAKMA (*Sekolah Pertanian Pembangunan*) which occupied seven hectares, and DEN ZIPUR (Military Housings), which occupied five hectares. These buildings also were built in the people's *tanah ulayat* without any compensation.

In 1979 when *sertificat* (land title) was given to BPT-HMT, the people of Mungo were very frustrated and asked that *sertificat* should be returned to the people. Then PEMDA of Limapuluh Kota organized a five-member *panitia*, or committee, to resolve the problem. The committee consisted of one from *Ulamah* (Islam elite), one from *Ninik-Mamak* (*adat* leader), one from KAN (Sekretaris KAN at the time, now former Ketua KAN) 1, one from *Cerdik Pandai* (community intelligentsia), and one from *Pemuda* (the youth group). In 1983, the committee

announced an agreement between the regional government and *ninik-mamak*, demanding that the government pay 2500 rupiah per square meter. Although the agreement was made, the government would not pay anything at all. All but one of the five-member committee had always been standing along the government side, and that's why they were criticized at the time of *Reformasi*.

After Suharto's fall in 1998, the people of Mungo became very brave, too. Five hundreds people demonstrated on February 1st, 2001, in front of BPT-HMT, making a demands such as "Give us back the *tanah ulayat*", "Abrogate the Certification!," and "Give us the photocopy of the Certification!." Even this peaceful demonstration met with the government's violence. On the evening of February 2nd, people who were still working in their *ladang* (un-irrigated agricultural field)⁶ noticed some people⁷ destroying a long fence which separated the ranch and *ladang*, and they saw hundreds of cows being driven into the *ladang*, and tramping *palawijia* which were expected to be harvested in a few days. Many people tried to drive those cows back into the ranch, but in vain. Then the people went to BPT-HMT to ask why the accident happened, however, suddenly all the electricity was turned off, and most of *pondok* in the *ladang* were put on fire and totally damaged.

On the afternoon of February 3rd, thirty-two villagers were arrested. Immediately after the news of a police sweep, most of the village men ran fled from the village. Many of them were hiding in Payakumbuh City, but there were some people that ran as far as Pukan Baru and even to Batam Island. Eighteen of the thirty-two village men were put into jail for three to six months on suspicion of provocateurs of the demonstration. DT. PK, a former member of the five-member committee and the Ketua KAN at the time, was behind the rows of the police and was laughing while watching the people being arrested.⁸ When those villagers came back, they found no goats, cows, and chickens in the *ladang*. It was not clear whether those cattle and chickens were taken away by the invaders, or ran out by themselves. As the people of

the village lost very important economic resources, the regional government (PEMDA) promised to give fifty cows to those people. Nevertheless the promise had not yet been fulfilled by August 2002, and three people were still designated as Wanted! This is not a story of the period of the New Order, but of the time of *Reformasi*. It appears that there is no difference in terms of the police attitude to the people between the New Order and *Reformasi*.⁹ Early on February 8, 2000, it was very ironical that LKAAM (*Lembaga Kerapatan Adat Alam Minangkabau*) issued a letter saying that the issue of Mungo should be resolved with wisdom and justice.

There used to be confrontations between the people of Mungo and Sungai Kamunyang, a neighbour *nagari* across the river, Batam Pinago, because most of the BPT-HMT workers came from Sungai Kamunyang. I have already suggested that the BPT-HMT workers were suspected of joining in the destruction of the *ladang* of Mungo in the incident of February 2001. They joined another act of destruction. Batam Pinago, which originates from the Mt. Sago, have been very important resources not for irrigation of the *ladang* but for drinking water for the people. There used to be four dams (*bendungan*) to distribute water from the river. The first one from the top is a dam for Sunagai Kamunyang. The second one is for Mungo, and the third one is also for Sunagai Kamunyang, and the fourth for BPT-HMT. It was promised at first that two-thirds of the water of the fourth dam would be used for Mungo, and the rest one-third was for BPT-HMT; however, no water was distributed to Mungo. Instead the water was distributed to Sungai Kamunyang, which supplied most of the workers of BPT-HMT. Then another act of terror happened on January 2001, when the people of Sungai Kamunyang destroyed the second dam for Mungo. Since then people of Mungo have been facing a water crisis for irrigation as well as for drinking. No matter how much the people of Mungo accused the Sunggai Kamunyang workers who destroyed the dam, the regional police would not do anything to deal with it.

The people of Mungo had consulted LBH (Legal Advice Institute) Padang to get compensation for their damages. Then the *orong* head of Jorong Indo Baleh Barat, who was jailed for six months after the February, 2001 incident, took action against BPT-HMT to get compensation for his own and people's losses. First the *wali nagari pejabat sementara* (temporary *nagari* mayor) of Nagari Mungo, who was an ex-police man, seemed very cool to the people's struggle when I interviewed him in 2001. Instead of showing some understanding of the people's difficulty, he said that the issue should be resolved for the whole *nagari* interest. He assumed that the people's protest to BPT-HMT was based on their egoism. After seeing him, the *orong* head, who accompanied me, complained about what the *wali nagari pejabat sementara* said, and told me that the villagers wanted to make an independent *nagari* if *Otonomi Daerah* (Regional Autonomy) would not give them a fair resolution.

When I saw the *wali nagari pejabat sementara* a year later, who had become the regular *wali nagari* by this time, changed his mind to support the *orong* head's trial with the pressure from the whole *nagari*. Now the people of Mungo have asked to be paid compensation from the terror and violence at an *adat* trial, however, they are not ready yet to demand publicly that the land should be given back due to the fact that the letter of contract (*Surat Janjian*) of the Dutch era were burned during the PRRI rebellion. Therefore, they really need to get the documents in order to have legitimacy for their claim. They have been talking about this issue to the Regional Government and BPT-HMT, only under the table.

Four other *nagari*, whose 50 ha of their *tanah ulayat* became the ranch of BPT-HMT were forced to support BPT-HMT saying that the land, which was claimed by the Mungo people, was not *tanah ulayat* but *tanah negara*. First they said they would support the Mungo people for the first time, but they changed their minds one-day before seeing the Bupati of Limapuluh Kota. Then the Bupati issued a letter which

admitted HGU of BPT-HMT over the land.

Nevertheless, I witnessed strong support for the people of Mungo for their struggle. Now the *wali nagari* Mungo publicly supported the struggle with the pressure of all the apparatus of Mungo like *Ninik-Mamak, Pemuda, Bundokandung, Ulamah, Cerdik Pandai* and so on. The people of Mungo often said that their right over the land originated from the time of ancestors (*asal-usulynya dari nenek-moyang*), and it was acknowledged even by the Dutch government. And it was very striking to observe the process of decision making among the people of Mungo. It is true that there are some villagers in Mungo who do not support the struggle, but after lengthy discussions about how the people should support the struggle, strong support for continuing the struggle was reaffirmed. Although the people who did not support the struggle withdrew from the decision at the end of the meeting or *musyawarah*, I was certain that even those people would respect the decision due to the legitimate process.

It is not easy for the people to win at the trial, however, it seems very clear that these struggles would help the people to maintain identity as Minangkabau people. Once a *nagari* was reunited under the regional autonomy policy, all the apparatus of *nagari* in Mungo now have been in position to support the claim over the right. When I asked the *wali nagari* if he was not afraid of fighting with the government, he immediately said he was not.

3. Solidarity and Confusion after the compensation was paid: the Kepala Hilalang Case

The *tanah ulayat* of Kepala Hilalang, which faces the southern slope of the Mt. Tandikat, is more than eight hundreds hectares. Nagari Kepala Hilalang is composed of four *korong* (sub villages).¹⁰ It is useful to remember that the *tanah ulayat* of Nagari Kepala Hilalang is in *desa* Tarok. Two Dutch companies, Tandikat Lama and Tandikat Baru, leased

the *tanah ulayat*, however, it is not clear what the two companies grew. Some people told me that the Dutch companies did not cultivate anything. According to them it was the Japanese Military that made the people planted rubber trees there.¹¹ Since Independence, the rubber plantations had been managed by veterans and local representatives until KODEM (later KOREM) Padang took the right of management in 1965. In 1968, a director of the plantation companies was arrested under suspicion of being an agent of PKI, then the military and the veterans of TNI made an independent company (PT Purna Karya) to manage the plantations. I was very surprised to hear that the people of Kepala Hilalang were prohibited from entering the plantations even to get firewood as they had done before. The local police made money by selling them to the people.

A month after Suharto's fall in 1998, people of Kepala Hilalang organized several large demonstrations. They claimed their right over the *tanah ulayat*, which had been occupied by KOREM since 1965.¹² Being astonished at the people's power, the military and the PT Purna Karya agreed to share the profits from the plantations.¹³ Every three months tapped rubber is accumulated to weigh in Padang, and after the demonstrations the profit from selling the tapped rubber would be divided into as follows: 37.5 % goes to KOREM, and 25 % goes to PT Kami Saiyo. Then the remaining 37.5 % is divided by LAN (*Lembaga Adat Nagari*) and four sub villages. LAN is given 25 % from the people's portion. Tarok is given 30 %, and the other three sub-villages are given 15 % respectively. The reason why Tarok is given much more than the other three sub-villages is that Tarok is closer to the *tanah ulayat* and most of the workers of PT Purna Karya are living in Tarok.

During the time of the demonstrations most Tarok people did not participate in the demonstrations. There are some hundreds of Javanese immigrants in Tarok. The Javanese in Tarok came to this area to be the workers on the rubber plantations. And in 1974 a Javanese immigrant who came to Tarok in 1960 became a director, or a coordinator in the field, of PT Purna Karya. Nowadays the Javanese immigrants have been

very worried about their status in Nagari Kepala Hilalang after the old *nagari* has been reunited. That is why Tarok people want to make an independent *nagari* by themselves. The people of the three other villages were strongly opposed the plan saying that it was impossible to draw a borderline inside a *nagari*, and accused that Tarok people wanted to monopolize the profits from the plantations. When I visited the place in 2001, Tarok people even said that the land was not *tanah ulayat* but *tanah negara*. It is true that BPN (*Badan Pertanahan Nasional*: National Land Bureau) Sumatera Barat issued an letter that admitted PT Purna Karya's HGU (*Hak Guna Usaha*; right of usufruct) in 1990, however, it did not mention anything about the land ownership. Thinking over the decision of profit division among KOREM, PT Purya Karya, and sub villages, the military itself admitted the right of *tanah ulayat* of the people of Nagari Kepala Hilalang.

On April 2001, Nagari Kepala Hilalang reunited itself despite the opposition from the people of Tarok. The *wali nagari pejabat sementara* (temporary *nagari* mayor) was elected through the meeting of *Ninik-mamk*, *Bundo Kandung*, *Ahli Ulama*, *Cerdik Pandai*, and *Pemuda* from the old *nagari*. Since then the people of Tarok realized how difficult it was to make an independent *nagari*.

Now PT Purna Karya publicly announces that they still want to run the rubber plantations from now on, but they face some difficulties.

First the amount of tapped rubber has been decreased to be nearly half amount which it used to be. As everybody who sells the tapped rubber through PT would be paid half of the price of the rubber, non PT workers are of course, and even PT workers, are reluctant to sell the tapped rubber through PT Purna Karya. They want to sell the tapped rubber to *maklar/tokei* (broker), because they will be paid all the money for their rubber, i.e. no commission.

Second, since 1998 *petani* (farmers) have been very brave to cultivate dry padi, avocado, cacao, *cengke* (clove) and *jati* (teak) in the plantations without any permission, and it is said that the amount of such

lands have already reached 40 hectares. When I asked this question to the *wali nagari pejabat sementara*, he changed the topic instead of answering my question. He cited a story about the regional government project that caused illegal cutting of rubber trees. Probably, he would have felt ashamed to admit the fact. Once the military and PT Purna Karya admitted the people's right over the plantation, people of Kepala Hilalang came to 'interpret' that they were free to cultivate what they wanted and needed inside the plantations. As it caused serious confusion to the plantations, *kelompok tani* (farmers unions), *kelompok peladang* (unirrigated field workers union), *ninik-mamak*, *pemuda* of Kepala Hilalang have been ready to regulate such people's activities. When those organizations of the *nagari* regulate successfully the people's activities, it means PT would lose their control over the plantations. People are wondering what they could and should do next. If they really want to take the *tanah ulayat* back, they are worried that PT and the military will have cut all the rubber trees; this means the plantations will lose its ability to make profit. If they don't, PT might claim their HGU forever.¹⁴

Rubber trees are very useful even after being cut. Those are used for firewood for making bricks. Piles of rubber trees of a truck can be sold at fifty thousand *rupiah*. A big rubber tree requires a full-truck to load it at once. There is a regional government project to encourage for the people to plant trees in 100 hectares of *ladang kosong* (literally not cultivated unirrigated field). However, as there is not enough money, people used to cut rubber trees without permission to get money and plant something after that.

4. *Ulayat Suku* in trial, Bukit Gompong Case

A case from Bukit Gompong shows another question of *tanah ulayat*. Bukit Gompong is located in Nagari Koto Gadang,¹⁵ Kabupaten Solok. This *tanah ulayat* is 'owned' by a *kaum* (suku Tanjung) of Dt. Basa Rusli. This is a big difference with the other two cases. On May 1, 1884,

a Dutch man leased the 180 ha of the land of suku Tanjung for 75 years. And on January 1, 1911, another Dutch man leased the *hutan rimboh* (*pusaka rendah*) for 35 years. It is said that those Dutch men ran 250 ha of plantations of coffee and tea. After Independence, the plantations had been managed by Landbou Maatscapij Bukit Gompong LTD by 1955, meanwhile since then a *perantau* (migrant) who originated from *nagari* Guguk took the leadership to manage the company until 1965. Even during those periods it was important that the plantations were leased. The people of the *kaum* had been paid rent.

Major change came in 1965, when HGU of the plantations was transferred to PT Kami Saiyo and the regional government (PEMDA) under the contract from 1965 to 1990. However as PT Kami Saiyo went bankrupt in 1982, the regional government assumed that HGU was transferred to the government. Then in 1990, PT Karakatau was given HGU (usufruct) of 750 hectares from 850 hectares of whole *ulayat suku* (*suku* communal land) of the suku Tanjung. The HGU will last for 30 years from 1990 and the company has planted coffee there. All the coffee products from the plantation are exported. According to the people's understanding, the 1965 contract had already expired in 1990 and there was no legal ground that the government gave HGU to PT Karakatau. The rest of the *tanah ulayat (ulayat suku)* was under the control of PEMDA, Dinas Perkebunan, BPTP Sukarami. Those people who were involved in this problem complained that they had never been given any opportunity of explanation of the transfer of HGM to PT Karakatau, and were never paid any compensation. If the government wants to maintain HGU, they said, people should be compensated with enough money.

But *Reformasi* helped the *kaum (suku)* members become brave enough to file a suit against the regional government and other authorities. In 2001, due to the application of *Otonomie Daerah*, Nagari Koto Gadang was reunited. Nevertheless, I was surprised at the new *wali nagari's* opinion on this issue of *ulayat suku*.¹⁶ He said that the issue was NOT a whole *nagari* problem but only a *kaum* issue, because the

tanah ulayat belonged just to the *kaum*. If they won the trial, it would be only those members who would be rewarded, and other *nagari* members would not be given anything at all. I have seen him twice in both 2001 and 2002. At the second time he accused Dt. Basa Rusli, who led the struggle, of not talking about the problem to KAN. However, he had already brought the issue to KAN, and got a letter from KAN that testified to the fact that Dt. Basa Rusli of *suku* Tanjung was the legal heir of the contracts during the Dutch era. Nevertheless, the *wali nagari* ignored or forgot the fact. This position of the *wali nagari* shows that there must have been a confrontation within the *nagari* politics, and that even the OTODA could not guarantee the people's rights.

The *kaum* people only claimed their right to the land which was controlled by Dinas Perkebunan (Plantation Office), because they assumed that it was not a good strategy to demand right to whole *tanah ulayat* which had been taken away. Once their rights were admitted, then they assume they would be able to go on to the next step. And they were still afraid of filing a suit against the regional government which had just moved in and built a new office building of Kabupaten government on their land.¹⁷

It was very funny that three Dt. Basa appeared in the trial. Two Dt. Basas lived in the same *nagari*, however, they belonged to different *suku*. Although KAN authorized that Dt. Basa Rusli was the legal heir, two Dt. Basas of different *suku* claimed their right over the land in the trial. And the court of Kabupaten Solok terminated the trial in April, 2002, saying that the prosecutors (members of Dt. Basa Rusli) had not involved enough defendants. The court continued that it was necessary to involve the Department of Agriculture in Jakarta. Due to this fact the court concluded that the trial should be suspended. But the claims of the two other Dt. Basas were rejected and they were ordered to pay 260, 000 *rupiah* for their involvement and loss of the trial. And now Dt. Basa Rusli and his *kaum* members are planning to initiate another trial.

I want to stress here that the struggle is not isolated from other

people. Some active leaders of Bukit Gompong often go to Padang to consult with LBH and see other people with the same problems and talk to each other about how to get through their struggles. And their struggles inspire other people, who have been shutting their mouths, to claim their right over the lands. For example, Nagari Koto Gaek Guguak, a neighbor *nagari* of Nagari Koto Gadang Guguak, is preparing to file suit against BPTP Sukarami. According to a leader, who had been the vice chairperson of KAN since 1980 and former *desa* head of *desa* Sukarami (1983-1996), the *tanah kaum* of 93 ha which had been leased to BPTP Sukarami since 1952, and became to be owned by BPTP in 1978, should be returned to the *kaum* or at least be compensated with a sufficient amount of money. He has been to Jakarta with the letters of attorney from the *kaum* members to see the Ministry of Agriculture twice, and then he, as the representative of his *kaum*, sent a letter to the Ministry of Agriculture on November, 2000. Despite his effort he said he had not received a response yet (by August, 2001), and he continued that, "It is not just that their land was taken without any consultation or compensation. That's the way of the New Order Indonesia," and added that his *kaum* has the right to be compensated at least 45,000 *rupiah* per m², because this was standard compensation in his area. He said to me that as the time was *Orde Reformasi*, the government should admit the right of his *kaum*.

5. Some Conclusive Remarks

Based on my observations, I want to emphasize some points here.

First the similarities of three cases show how the New Order Indonesia had carried out its *Pembangunan* policies in rural areas. All three cases used to be plantations of Dutch companies, and faced major change after 1965. *Tanah ulayat* of Mungo was used for a cattle ranch of BPT-HMT in 1974, and DEN ZIPUR and SNAKMA were built after that. Government and military-run companies were established in Kepala Hilalang and Bukit Gompong. Three cases had been targeted for

Pembangunan (Development) in the regional levels. These observations were not exceptions. The *tanah ulayat* issues, which are being openly discussed nowadays, have nearly the same features in these three cases. The lands had been used for *Pembangunan* without any compensation. And HGU had been already transferred to the government and military companies. This transfer of HGU made the issues very serious.

The regional government insisted that the land became *tanah negara* after the nationalization of foreign companies in 1958.¹⁸ However, it is hard to interpret that the nationalization of foreign companies involved the land ownership, too. Rather, it is moderate to interpret the nationalization only to have involved the properties of foreign companies, not land ownership.¹⁹ In terms of *Peraturan Menteri Negara* No.5, 1999, which admits the people's right of *tanah ulayat*, but prescribes that people's right over the *tanah ulayat* would not be applied to HGU which was given before that regulation was established, caused people's great frustration. People used to say that even the Dutch companies admitted their right over the *tanah ulayat* and leased the lands and paid rent. However, why the *Pemerintah Saudara*, brother government, would not admit the people's right over the *tanah ulayat*?

So far they have not said anything about the possibility of seeking independence from Indonesia, or regionalism. They are demanding a legal process of decision making for the utilization of the *tanah ulayat* and enough compensation or rent. They don't deny the necessity of development itself. Aware of the fact that BPT-HMT was given 215 cows from Australia in 2002, the people of Mungo asked me to stop the Japanese government from giving aid to BPT-HMT. The Governor of West Sumatra went to Japan to get Japanese aid at the time when I saw the people in 2002. They said that BPT-HMT, the regional government and the province government of West Sumatra should resolve the issue first, and then the development planning might possibly be brought into Mungo, too.

It is true that some people are worried that collective land

ownership does not make for easy decision-making among the members, and might lead to the loss of the chances for development such as World Bank projects. However, if this worry were to legitimize the case of Kapar in Kabupaten Passaman, it would mean that there remains disaster and despair among the people. The case of Kapar in Kabupaten Passaman is the one which some local leaders like *Ninik-mamak* and *Kepala Desa*, sold 3500 ha of *tanah ulayat* to make palm oil plantations without any consultation with the village people. This caused a furious response and a law suit initiated by the people. I interviewed a villager of Pasaman who was arrested on August 10th, 2001 without any warrant. He was suspected of provoking trouble about land issue in Passaman. Police attacked his house early in the morning, and brought him to the police car by force, and beat the farmer until giving him to be hospitalized for some months under a false name, without notifying his family. This is another story of terror by the regional police towards local people who do not accept the government's policy.²⁰

The Minangkabau society has a long history of *musyawarah* and *mufakat* to make decisions. We just need to remind the process of such decision-making based on *adat*. This process of decision making is the nearest and surest way of solving the *tanah ulayat* issues in West Sumatra. It was very striking to observe the process of decision-making among the people of Mungo, and how they supported the struggle of the trial for compensation for damages caused by the terror and violence on February, 2001.²¹

Second, I want to point out about *Desentralisasi* (decentralization) / *Senralisasi* (Centralization) during the time of *Reformasi*. People's claim to their rights to *tanah ulayat* must be related to decentralization of Indonesia. Indonesia had been too centralized during the New Order to have damaged seriously regional cultures, *adat* and village systems. In terms of West Sumatra, the Marriage Law of 1974 and Desa Law of 1979 have brought serious damage. The *tanah ulayat* issues should be understood from the political aspect as well as the economic aspect.

OTODA, or the reunification of old *nagari* which were disorganized into several *desa* in the early 1980s, seemed to represent a typical phenomenon of such decentralization. However, as I have stressed, the regional government used to rely on terror and violence and negotiations under the table. In addition to these attacks, representatives of the regional government often made comments that *rakyat* (people) were not educated enough to be the agents of utilizing *tanah ulayat* as an important resource.

Mr. and Mrs. Benda-Beckman stressed that the trend to reunite old *nagari* is a more prominent element of discourse in the Minangkabau society nowadays based on the keywords of *adat*, Islam, and they also pointed out that 'the strongest, and most strongly contested, revitalization of *adat* is in the field of rights to natural resources in the village territory (*ulayat*).'²² I can cite the same discourse through the analysis of the Mungo and Kepala Hilalang cases. With the pressure of all the apparatus of Mungo like *Ninik-Mamak*, *Pemuda*, *Bundo-kandung*, *Ulamah*, *Cerdik Pandai* and so on, the *wali nagari* Mungo publicly supports the struggle today, while he was reluctant to support the struggle in 2001. They often say that their right over the land originates from the time of mythology (*asal-usulnya dari nenek-moyang*), and it was acknowledged even by the Dutch government. They claim that their right over the *tanah ulayat* is definitely legitimate and was based on their *adat*.

However, contrary to the agreement to divide the profits among all the people, PT and military, the Kepala Hilalang case shows that even if the people were compensated, it would not always bring peace to the whole *nagari*. Money from the company and the possibility of reunification of the old *nagari* triggered serious disintegration and conflict among the *nagari* members for the first time, and brought some confusion in utilizing the *tanah ulayat*, however, even the people of a sub village, who opposed the reunification of the old *nagari*, discover little by little the impossibility of making an independent *nagari*, and agree to reunite in solidarity as a *nagari*.²³

It is true that the new *nagari* budget is much bigger than the

sum of the budgets of *desa* in the old *nagari*. The *wali nagari* is no longer under the control of *camat*: he represents the *nagari* directly under the *bupati* of *Kabupaten*. *Camat* lowered his status as a coordinator in *Kecamatan*. The Bukit Gompong case shows that the issue is rather isolated in the *nagari*, however, the struggle triggers another struggle in a neighbor *nagari*.

Generally speaking *nagari* autonomy under the regional autonomy would not always guarantee the right of the *tanah ulayat* in respective *nagari*. *Wali nagari* cannot be said to be the representatives of the people. They are still under government control. Nevertheless, it is no wonder that *Reformasi* and *Disentralisasi* in the region cannot easily realized unless these issues have been resolved properly.²⁴ These issues could potentially trigger real regionalism and rebellions in the near future. That's why we have to pay attention to those movements from now on.²⁵

* This is a revised edition of my paper which was presented on July 18, 2002, at the 3rd. International Symposium of the Journal *ANTROPOLOGI INDONESIA*, Rebuilding Indonesia, a Nation of Unity in Diversity Towards a Multicultural Society which was held on 16-19 July 2002, Udayana University, Denpasar, Bali.

¹ Schamunir, *Pengadaan Tanah Untuk Kepentingan Pembangunan, Himpunan Makalah dan Rumusan Workshop Tanah Ulayat di Sumatera Barat*, ed. By H. Syofyan Jallaluddin, Padang, 2001.

² I worked with LBH Padang, and would like to show my special appreciation to Mr. Andiko, Sudi and Alex.

³ Eleven cases were reported at a four-day conference of P2TANRA (*Persatuan Persaudaraan Tani Nelayan Nusantara*), Sumatera Barat, in August, 2001. The names of the cases other than Mungo, Kepala Hilalang and Bukit Gompong are as follows: Kapar case, *Tanah ulayat nagari* Kapar, *Kecamatan Passaman*, 3500ha; Katapiang case, *tanah Garapan* 47 Ketua Keluarga, *Kabupaten Padang Pariaman*, 12,365 m² (building new airport); Kura Pagan case, *tanah garapan* Kartini, *tanah negara* erv.

Verponding 1214 Kurao Pagang, Padang, 12 ha; Mundam case, *tanah garapan*, *tanah negara* erv. Verponding 1214 Kurao Pagang, Padang, 0.5 ha; Malvinas case, *tanah garapan* masyarakat Malvinas, Padang, 12 ha; Rasidin case, *tanah garapan* Rasidin, Kabupaten Padang-Pariaman, 6000 m²; Jalaludin Yus case, Koto Tengah, 2400 m²; Anai Resot case, *tanah ulayat* Nagari Guguk, Kecamatan Enam Lingkung, Kabupaten Padang-Pariaman, 1650 m² (resort and golf course); Rajali case, *tanah garapan* Rajali, Padang-Pariaman, 4 ha.

Besides these cases people in the area of Padang Cement have claimed their right over the land when the company announced its plan to sell out to a Mexican cement company, and a *suku* in Ombilin has claimed their right over the *tanah ulayat* in Ombilin coal mining.

⁴ For example, the Marriage Law of 1974, and Desa Law of 1979. And see my article, Ethnicity and Religion in Suharto's New Order: Minangkabau Society under the Marriage Law of 1974, in *Nation-State, Identity and Religion in Southeast Asia*, pp.25-54, ed. by Tsuneo Ayabe, Singapore Society of Asian Studies, Asian Studies Monograph Series No. 4, 1998, and *The State Ideology of Rumah Tangga* (Household) and the Minangkabau View of Gender and Power, *IBUNKA (Other Cultures)*, Vol. 3, Faculty of Intercultural Communication, Hosei University, Tokyo, 2002, pp.233-42.

⁵ *Cabe* (chili), *ubi* (edible tuber), *jagung* (corn), *padi ladang* (rice grown in dry field) and so on.

⁶ *Ladang* is opposed to *sawah*, wet rice field.

⁷ People of Mungo testified to me that they were BPT-HMT workers and policemen.

⁸ He was also *Ketua Kelompok Ternak* (Head of the Ranch Workers' Union) and had been paid some amount of money to distribute them to the workers. And he was also told that he might lose his job if he stood in with the people. Several months later, when the village men came home little by little, Dt. PK was fired from his status as the Ketua KAN, and the system KAN itself was dissolved. Then LAN (*Lembaga Adat Nagari*) was organized. The Ketua LAN was erected on June, 2001.

⁹ I interviewed a journalist who used to be a member of the committee and was one of the persons who were still Wanted. He was the Ketua LKAAM in 1979. As he was still wanted, he came back home secretly from a long life as a refugee starting from Pekanbaru, Batam Island, Jakarta and Padang. He said he lived with donations from his supporters. His family faced a difficulty while he was away. His wife worked as a civil servant with poor income and they had three children. Once his house was set on fire. Fortunately, his neighbors saw two men throw a petrol bomb into his house, then the two arsonists were caught and brought to the police by those people. Curiously enough the suspected arsonists were released without any punishment several days later.

¹⁰ *Korong* is a dialect of *orong* in this district. Four *korong* in Kepala Hilalang is Tarok, Simpang Baleh Kami, Puncurian Tujuh, and Pasar Limau.

¹¹ As it used to take about ten years until rubber was ready to be tapped, it was only after the Independence when the people received profits from the plantations.

¹² They have *surat pinjaman* (letter of lease) of the Dutch companies, and the *perantau* organization from Kepala Hilalang in Jakarta (*Ikatan Keluarga Kepala Hilalang Jabotabek*) also supported this struggle.

¹³ Before starting a survey in Kepala Hilalang, I referred to a thesis for a master degree of Refinaldi, *Konflik Tanah Ulayat Di Sumatera Barat, Studi Kasus: Tanah Perkebunan Tandikat Lama Dan Tandikat Baru Di Kenagarian Kepala Hilalang Kabupaten Padang-Pariaman*, Program Pasca Sarjana Universitas Negeri Padang, 2000. However, Refinaldi's thesis, I found, did not cover the process of the fight properly.

¹⁴ I have just received shocking news from LBH Padang on the closing day of this paper. PT Purna Karya stopped controlling the plantations, and the benefits from the tapped rubber will be shared by the workers and Nagari Kepala Hilalang. The workers will be given seventy percent and the *nagari* the remaining thirty percent.

¹⁵ Nagari Koto Gadang used to belong to Nagari Guguk before 1979,

however, after the *desa* days between 1979 to 2001, Nagari Koto Guguk was divided into three Nagari: Nagari Koto Gaek, Nagari Jawi-Jawi, and Nagari Koto Gadang following the Nagari Guguk being divided into three *desa* (Koto Gaek, Jawi-Jawi and Koto Gadang) during the *desa* days.

¹⁶ The *wali nagari* was a former primary school teacher in his mid-thirties.

¹⁷ The neighbor plantation of PT Karakatau is Kebun Taluk Gunung which have been cultivated tea since 1965 by PT Enam Teluk Gunung. This vast land of more than 1000 ha used to be the *tanah ulayat* of Nagari Batumbuk and Nagari Batang Barus, and the Dutch companies leased the land. Nevertheless, as the people could not find documents of *Surat Sewa Tanah* (document of rent), the people could not claim their right over the plantation. The land which is higher than the plantation is directly connected to *Danau Atas*.

¹⁸ The regional government defend themselves by using this logic at the trial of Bukit Gompong.

¹⁹ Professor Schamunir at Andalas University expressed his view to me, and see his article of *Himpunan Makalah dan Rumusan Workshop Tanah Ulayat di Sumatera Barat*, ed. By H. Syofyan Jallaluddin, Padang, 2001.

²⁰ Police released him three months later on the condition that people would not accuse the police and would acknowledge his arrest as legal. Police took his thumb impression forcefully to show that he himself was content with the arrest while he fainted in the police truck. People weighed the balance of loss and gain to continue the trial, then they decided not to accuse the police any more on the ground that the person was released. In Mungo, people would not stop their struggle until they will be compensated.

²¹ See Keebet von Benda-Beckman, *The broken stairways to concensus: Village justice and state courts in Minangkabau*. Dordrecht:Foris, 1984.

²² Franz and Keebet von Benda-Beckman, "The Multiple dilemmas of decentralization: recreating the *nagari* in West Sumatra," paper presented at the 3rd International Symposium of the Journal *Antropoligi Indonesia*, 16-19, July 2002, Bali, Indonesia. I referred to their another paper also.

"Recreating the *nagari* : decentralization in West Sumatra," first presented at the 3rd conference of the European Association for Southeast Asian Studies (EUROSEAS), London, 6-8 September, 2001.

²³ It is very interesting to observe what will happen next in Kepala Hilalang after PT Purna Karya would not control the plantations any more and that all the benefits from the plantations would be shared between the plantation workers and *nagari*.

²⁴ The province government of West Sumatra made a draft to deal the *tanah ulayat* issue, and LKAAM also made a draft. We must keenly pay attention what kind of law or government regulation would be implemented.

²⁵ The following clash between the people of Tana Datar and the police shows how the people do not trust police and they are not afraid of the police any more.

On the evening of July 23rd, 2002, there happened a quarrel in the city of Batu Sangkar, Tana Datar, about who should be responsible for the accident between a policeman and a one-horse carriage driver. In the end of the quarrel the policeman knocked down the one-horse carriage driver, then he went back to his office. Later as the driver told his friends and villagers the story, a lot of villagers and one-horse carriage drivers came to the police office, and wanted to report the incident to the police and asked for an apology of the policeman. Astonished by the people's power, the police director ordered to shoot them, and two men were killed, and one was seriously injured. The people became very furious at police counter actions and set fire on the police buildings. A big demonstration which criticized the police shooting and two men's death was organized on the following several days. The police of Batu Sangkar could not deal with the people's claim, and so asked Jakarta to finish the incident.

It was based on prejudice that some newspapers like the *Kompas* (July 25, 2002) used the word of *rampuk* (run amuck) to report the people's actions.